

<b>Tab 1</b>	<b>SB 7032</b> by <b>IS</b> ; (Identical to H 07011) OGSR/Emergency Planning Assistance/Division of Emergency Management						
<b>Tab 2</b>	<b>SB 7034</b> by <b>IS</b> ; (Identical to H 07037) OGSR/Automated License Plate Recognition System						
<b>Tab 3</b>	<b>SB 7036</b> by <b>IS</b> ; (Identical to H 07007) OGSR/Payment of Toll on Toll Facilities/Identifying Information						
<b>Tab 4</b>	<b>SB 440</b> by <b>Rouson</b> ; (Identical to H 00283) Florida Commission on Human Relations						
<b>Tab 5</b>	<b>CS/SB 236</b> by <b>CJ, Book</b> ; Public Records and Public Meetings						
<b>Tab 6</b>	<b>SB 574</b> by <b>Diaz (CO-INTRODUCERS) Stewart</b> ; (Similar to H 00803) Special Risk Class						
133006	A	S	RCS	GO, Hooper	Delete L.63:		03/06 01:05 PM
<b>Tab 7</b>	<b>CS/SB 248</b> by <b>CJ, Hooper (CO-INTRODUCERS) Baxley, Simpson, Perry</b> ; (Similar to CS/H 00203) Public Records/Civilian Personnel Employed by a Law Enforcement Agency						
576466	A	S	RCS	GO, Hooper	btw L.331 - 332:		03/06 01:05 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY**

**Senator Hooper, Chair**  
**Senator Rader, Vice Chair**

**MEETING DATE:** Wednesday, March 6, 2019

**TIME:** 10:30 a.m.—12:30 p.m.

**PLACE:** 301 Senate Building

**MEMBERS:** Senator Hooper, Chair; Senator Rader, Vice Chair; Senators Albritton, Bean, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 7032</b> Infrastructure and Security (Identical H 7011)	OGSR/Emergency Planning Assistance/Division of Emergency Management; Amending a specified provision which provides an exemption from public records requirements for information furnished by a person or a business to the Division of Emergency Management for emergency planning assistance; removing the scheduled repeal of the exemption, etc.  GO     03/06/2019 Favorable RC	Favorable Yeas 4 Nays 0
2	<b>SB 7034</b> Infrastructure and Security (Identical H 7037)	OGSR/Automated License Plate Recognition System; Amending a specified provision which provides a public records exemption for certain images and data obtained through the use of an automated license plate recognition system and for personal identifying information of an individual in data generated from such images; removing the scheduled repeal of the exemption, etc.  GO     03/06/2019 Favorable RC	Favorable Yeas 4 Nays 0
3	<b>SB 7036</b> Infrastructure and Security (Identical H 7007)	OGSR/Payment of Toll on Toll Facilities/Identifying Information; Amending a specified provision which provides an exemption from public records requirements for personal identifying information held by the Department of Transportation, a county, a municipality, or an expressway authority for certain purposes; deleting the scheduled repeal of the exemption, etc.  GO     03/06/2019 Favorable RC	Favorable Yeas 4 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Governmental Oversight and Accountability

Wednesday, March 6, 2019, 10:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 440</b> Rouson (Identical H 283, Compare S 1488)	Florida Commission on Human Relations; Providing quorum requirements for the Commission on Human Relations and its panels; revising the number of persons the commission may recommend for the Florida Civil Rights Hall of Fame; deleting a requirement that a facility or community that provides housing for older persons register with and submit a letter to the commission; deleting the requirement for the commission or Attorney General to investigate a complaint of discrimination in evaluating an application for club membership, etc.  GO 03/06/2019 Favorable JU RC	Favorable Yeas 4 Nays 0
5	<b>CS/SB 236</b> Criminal Justice / Book	Public Records and Public Meetings; Providing an exception to the expiration of certain public records and public meetings exemptions under specified circumstances; prohibiting the disclosure of the personal identifying information of an alleged victim of sexual harassment or sexual misconduct, or information that could assist an individual in determining the identity of such alleged victim, in any portion of a proceeding conducted by the Commission on Ethics, a commission on ethics and public trust, or a county or a municipality that has established a local investigatory process which is open to the public; providing for future legislative review and repeal; providing statements of public necessity, etc.  CJ 02/11/2019 Fav/CS GO 03/06/2019 Favorable RC	Favorable Yeas 4 Nays 0
6	<b>SB 574</b> Diaz (Similar H 803, S 1190, Compare H 511, S 744)	Special Risk Class; Adding to the class certain employees of specified state hospitals and other facilities who spend a certain amount of time performing duties that involve contact with patients or inmates, etc.  GO 03/06/2019 Fav/CS AEG AP	Fav/CS Yeas 4 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Governmental Oversight and Accountability

Wednesday, March 6, 2019, 10:30 a.m.—12:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>CS/SB 248</b> Criminal Justice / Hooper (Similar CS/H 203, Compare H 7009, S 7004)	Public Records/Civilian Personnel Employed by a Law Enforcement Agency; Expanding exemptions from public records requirements for agency personnel information by defining the term "home addresses" for purposes of public records exemptions for personal identifying and location information of certain agency personnel and their family members; exempting personal identifying and location information of active or former civilian personnel employed by a law enforcement agency, and of spouses and children of such personnel, from public records requirements; providing for legislative review and repeal of the exemptions; providing statements of public necessity, etc.  CJ 02/04/2019 CJ 02/11/2019 Fav/CS GO 03/06/2019 Fav/CS RC	Fav/CS Yeas 4 Nays 0

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 7032

INTRODUCER: Infrastructure and Security Committee

SUBJECT: OGSR/Emergency Planning Assistance/Division of Emergency Management

DATE: March 5, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Miller</u>	<u>Miller</u>		<b>IS Submitted as Committee Bill</b>
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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**I. Summary:**

SB 7032 amends s. 252.905, F.S. to save from repeal the current exemption from public records disclosure for any information provided by individuals and businesses to the Division of Emergency Management for the purposes of being provided assistance with emergency planning. The bill removes the scheduled repeal date of the exemption, thus continuing the exemption.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect on October 1, 2019.

**II. Present Situation:**

**Public Records Law**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that:

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> FLA. CONST., art. I, s. 24(a).

<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature's records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

[i]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.<sup>9</sup> The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup> A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.<sup>11</sup>

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”<sup>12</sup> Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>13</sup>

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<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

<sup>10</sup> FLA. CONST., art. I, s. 24(c).

<sup>11</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>12</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>13</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

## Open Government Sunset Review Act

The Open Government Sunset Review Act (referred to hereafter as the “OGSR”) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>14</sup> The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>15</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>16</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>17</sup>
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>18</sup> or
- It protects trade or business secrets.<sup>19</sup>

The OGSR also requires specified questions to be considered during the review process.<sup>20</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>21</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>22</sup>

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<sup>14</sup> Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to section 119.15(2), F.S.

<sup>15</sup> Section 119.15(3), F.S.

<sup>16</sup> Section 119.15(6)(b), F.S.

<sup>17</sup> Section 119.15(6)(b)1., F.S.

<sup>18</sup> Section 119.15(6)(b)2., F.S.

<sup>19</sup> Section 119.15(6)(b)3., F.S.

<sup>20</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>21</sup> FLA. CONST. art. I, s. 24(c).

<sup>22</sup> Section 119.15(7), F.S.

## **Emergency Preparedness Plans for Individuals and Businesses**

The Florida Division of Emergency Management (FDEM), established in the Executive Office of the Governor,<sup>23</sup> is the state's emergency management agency. The State Emergency Management Act directs the FDEM to oversee and manage emergency preparedness, response, recovery and mitigation programs in Florida.<sup>24</sup> Among the FDEM's statutorily required duties is the requirement to institute a multifaceted public educational campaign on emergency preparedness.<sup>25</sup> The campaign must promote the personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster.<sup>26</sup> In 2006, the FDEM launched its "Get a Plan" campaign to encourage individuals, families, and businesses to develop disaster plans in preparation for and in response to natural or manmade disasters.

The "Get a Plan" campaign includes an online preparedness tool to allow individuals, families, and businesses to create an emergency plan tailored to the specific needs of the user.<sup>27</sup> The tool allows users to establish a profile with a user name and password to access the online tool at their convenience to adjust or update any aspect of their emergency response plan. Users may also create an emergency plan without saving a profile.

Emergency plans may include sensitive information such as alternative locations for families to meet or business relocation in the event of building damage; business contacts, including suppliers and employees; backup suppliers for key materials and services depended upon by businesses; and important software, records, and documents a business needs to operate.

Since July 2014, 2,774 users have created a profile on the "Get a Plan" website and 55,186 emergency plans have been created. Of the total plans created, 51,612 plans were created by users who chose not to save a profile and 3,574 plans were created by users who created a profile. One profile can contain both a family plan as well as a business plan.<sup>28</sup>

## **Open Government Sunset Review of the Public Record Exemption for Emergency Planning Information**

In 2014, the Legislature created s. 252.905, F.S., to exempt from the public disclosure requirements any information furnished by a person or business to the FDEM for the purpose of being provided assistance with emergency planning.<sup>29</sup> Under this exemption, information input by individuals and businesses in an emergency plan on FDEM's "Get a Plan" website is exempt from disclosure requirements under public records law. This public record exemption would also apply to any future FDEM programs or applications created to assist individuals and businesses with emergency planning.

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<sup>23</sup> Section 14.2016, F.S.

<sup>24</sup> Section 252.31, F.S.

<sup>25</sup> Section 252.35(2)(i), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> FDEM's "Get a Plan" online emergency preparedness tool available at: <https://apps.floridadisaster.org/getaplan/> (last visited January 8, 2019).

<sup>28</sup> E-mail correspondence with FDEM staff. August 29, 2018, on file with the Committee on Infrastructure and Security.

<sup>29</sup> Ch. 2014-188, Laws of Fla.



In creating the exemption, the Legislature found that exempting information furnished by a person or business to the FDEM for the purpose of being provided assistance with emergency planning is a public necessity. The Legislature recognized emergency plans may contain sensitive information for individuals, families and businesses, and without the exemption, the effective and efficient administration of the FDEM's public awareness program would be significantly impaired. The Legislature further found that the potential disclosure of sensitive information has served as a disincentive for creating a disaster plan, and the harm that may result from the release of personal or business information obtained by the FDEM outweighs any public benefit that may be derived from disclosure of the information.<sup>30</sup>

Section 252.905, F.S., is subject to the OGSR and stands repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Based upon a review of this public records exemption under the OGSR and discussions with the FDEM, the professional staff of the Senate Infrastructure and Security Committee recommends that the Legislature retain the public records exemption established in s. 252.905, F.S.

### **III. Effect of Proposed Changes:**

The bill is based on an Open Government Sunset Review of a public records exemption for information furnished by a person or business to the FDEM for the purpose of being provided assistance with emergency planning. The justification upon which the public records exemption is based remains valid.

The bill amends s. 252.905, F.S., to delete the scheduled repeal of the current public records exemption for individual and business emergency planning information held by the FDEM. These records will continue to be exempt from public disclosure.

The bill takes effect October 1, 2019.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

#### **B. Public Records/Open Meetings Issues:**

##### ***Vote Requirement***

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption

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<sup>30</sup> Section 2, ch. 2014-188, Laws of Fla.

beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

***Public Necessity Statement***

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion. Thus, a statement of public necessity is not required.

***Breadth of Exemption***

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect information provided by individuals and businesses to the FDEM for the purposes of being provided assistance with emergency planning. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost, to the extent imposed, associated with the FDEM making redactions in response to a public records requests.

C. Government Sector Impact:

The FDEM will continue to incur costs related to the redaction of records in response to public record requests.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 252.905 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By the Committee on Infrastructure and Security

596-02378-19

20197032\_\_

1                                   A bill to be entitled  
2           An act relating to a review under the Open Government  
3           Sunset Review Act; amending s. 252.905, F.S., which  
4           provides an exemption from public records requirements  
5           for information furnished by a person or a business to  
6           the Division of Emergency Management for emergency  
7           planning assistance; removing the scheduled repeal of  
8           the exemption; providing an effective date.  
9  
10   Be It Enacted by the Legislature of the State of Florida:  
11  
12           Section 1. Section 252.905, Florida Statutes, is amended to  
13   read:  
14           252.905 Emergency planning information; public records  
15   exemption.-  
16           ~~(1)~~ Any information furnished by a person or a business to  
17   the division for the purpose of being provided assistance with  
18   emergency planning is exempt from s. 119.07(1) and s. 24(a),  
19   Art. I of the State Constitution. This exemption applies to  
20   information held by the division before, on, or after the  
21   effective date of this exemption.  
22           ~~(2) This section is subject to the Open Government Sunset~~  
23   ~~Review Act in accordance with s. 119.15, and shall stand~~  
24   ~~repealed on October 2, 2019, unless reviewed and saved from~~  
25   ~~repeal through reenactment by the Legislature.~~  
26           Section 2. This act shall take effect October 1, 2019.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 7034

INTRODUCER: Infrastructure and Security Committee

SUBJECT: OGSR/Automated License Plate Recognition System

DATE: March 5, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Proctor</u>	<u>Miller</u>		<b>IS Submitted as Committee Bill</b>
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 7034 amends s. 316.0777, F.S., to save from repeal the exemption from public disclosure for all images obtained from an automatic license plate recognition system as well as any personal identifying information in any data generated from images obtained from such a system. The bill removes the scheduled repeal date of the exemption, resulting in the continuation of the exemption.

The bill is not anticipated to impact state and local revenues and expenditures.

The bill takes effect on October 1, 2019.

**II. Present Situation:**

**Public Records Law**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that:

[i]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.<sup>9</sup> The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup> A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.<sup>11</sup>

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”<sup>12</sup> Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature.

<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

<sup>10</sup> FLA. CONST., art. I, s. 24(c).

<sup>11</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>12</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>13</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act (referred to hereafter as the “OGSR”) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>14</sup> The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>15</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>16</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>17</sup>
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>18</sup> or
- It protects trade or business secrets.<sup>19</sup>

The OGSR also requires specified questions to be considered during the review process.<sup>20</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>21</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote

<sup>13</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>14</sup> Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to section 119.15(2), F.S.

<sup>15</sup> Section 119.15(3), F.S.

<sup>16</sup> Section 119.15(6)(b), F.S.

<sup>17</sup> Section 119.15(6)(b)1., F.S.

<sup>18</sup> Section 119.15(6)(b)2., F.S.

<sup>19</sup> Section 119.15(6)(b)3., F.S.

<sup>20</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>21</sup> FLA. CONST. art. I, s. 24(c).

for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>22</sup>

### **Automated License Plate Recognition System**

An automated license plate recognition system (ALPRS) is a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of license plates into computer-readable data.<sup>23</sup> ALPRS uses computerized optical character recognition to extract vehicle license plate information from an image or a sequence of images. Data files compiled in ALPR systems typically contain the following information:

- Black and white plate image;
- Contextual color image;
- Electronically readable format of plate alphanumeric characters of license plate numbers;
- Location and GPS coordinates;
- Time and date of image capture; and
- Camera identification (mobile cameras may capture officer and vehicle/unit number).<sup>24</sup>

Although the full extent of ALPRS use is unknown, surveys conducted as part of this OGSR provided responses from 19 police departments and five agencies. Of the 24 respondents eight respondents stated they are using an ALPRS.

Data obtained from an ALPRS is generally used to check license plates against law enforcement hot lists. Hot lists contain a list of stolen plates and vehicles entered into the National Crime Information Center database, the Florida Crime Information Center database, Driver and Vehicle Information Database, and any information entered manually by the operating member. Examples of manual entries include, but are not limited to: attempt to locate; AMBER/SILVER alerts, child abductions, missing or wanted persons, and registered sexual predators.<sup>25</sup>

Though designed to assist law enforcement with day-to-day vehicle violations, an ALPRS may collect and store extensive location information about each vehicle in its field of vision. Photographs captured by an ALPRS may contain more than simply the license plate, and sometimes include a substantial part of a vehicle, its occupants, and its immediate vicinity. Law enforcement can use captured photographs to verify witness descriptions of vehicles and confirm identifying features. Florida Law requires the Department of State in consultation with the Department of Law Enforcement to establish a retention schedule for records containing images and data generated through the use of an ALPRS. The retention schedule must establish a maximum period that the records may be retained.<sup>26</sup>

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<sup>22</sup> Section 119.15(7), F.S.

<sup>23</sup> Section 316.0778(1), F.S.

<sup>24</sup> U.S. Department of Justice report on “ALPR Use by Law Enforcement: Policy and Operational Guide, Summary” available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/239605.pdf> (last visited on February 6, 2019).

<sup>25</sup> Florida Department of Highway Safety and Motor Vehicles’ “Florida Highway Patrol Policy Manual” on ALPRS available at: <https://www.flhsmv.gov/pdf/fhp/policies/1725.pdf> (last visited on February 6, 2019).

<sup>26</sup> Section 316.0778(2), F.S.



The Department of State specifies the retention of license plate recognition records: “Retain until obsolete, superseded, or administrative value is lost, but no longer than 3 anniversary years unless required to be retained under another record series.”<sup>27</sup>

### **Open Government Sunset Review of the Public Record Exemption for the Automatic License Plate Recognition System**

In 2014, the Legislature created s. 316.0777, F.S., to exempt from the public record requirements information obtained by an ALPRS. The exemption applies to ALPRS images and data containing or providing personal identifying information, as well as personal identifying information derived from ALPRS data or images. The information collected from ALPRS and held by an agency is confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I of the State Constitution.<sup>28</sup>

Such information may be disclosed under the following conditions:

- By or to a criminal justice agency, as defined in s. 119.011(4), F.S. in performance of the agency’s official duties.
- To a license plate registrant requesting his or her own information, as long as it is not related to any ongoing criminal investigation, as defined in s. 119.011(3), F.S.<sup>29</sup>

In creating the exemption, the Legislature found that exempting the release of personal identifying information collected by an ALPRS is a public necessity. The Legislature recognized that disclosure of such information could enable a third party to track a person’s movements and would be an invasion of personal privacy.<sup>30</sup> The Legislature further found that the public disclosure of sensitive personal information could be defamatory or jeopardize an individual’s safety and that the harm from public disclosure outweighs any public benefit.<sup>31</sup>

Section 316.0777, F.S., is subject to the OGSR and stands repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Based upon a review of this public records exemption under the OGSR and discussions with the Florida Department of Highway Safety and Motor Vehicles, the professional staff of the Senate Infrastructure and Security Committee recommends that the Legislature retain the public records exemption established in s. 316.0777, F.S.

### **III. Effect of Proposed Changes:**

The bill is based on an Open Government Sunset Review of a public records exemption for information obtained by an ALPRS. The justification upon which the public records exemption is based remains valid.

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<sup>27</sup> Florida Department of State, General Records Schedule GS2 for Law Enforcement, Correctional Facilities and District Medical Examiners, Effective: August 2017 available at: <https://dos.myflorida.com/media/698314/gs2-sl-2017-final.pdf> (last visited January 14, 2019).

<sup>28</sup> Ch. 2014-170, Laws of Fla.

<sup>29</sup> *Id.*

<sup>30</sup> Section 2, ch. 2014-170, Laws of Fla.

<sup>31</sup> *Id.*

The bill amends s. 316.0777, F.S., to delete the scheduled repeal of the current public records exemption for all images obtained from an automatic license plate recognition system as well as any personal identifying information in any data generated from images obtained from ALPRS held by an agency. These records will continue to be confidential and exempt from public disclosure.

The bill takes effect October 1, 2019.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Not applicable. This bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor

##### **B. Public Records/Open Meetings Issues:**

###### ***Vote Requirement***

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

###### ***Public Necessity Statement***

Article 1, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion. Thus, a statement of public necessity is not required.

###### ***Breadth of Exemption***

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of this law is to protect all images obtained from an automatic license plate recognition system as well as any personal identifying information in any data generated from images obtained from such a system. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 316.0777 of the Florida Statutes:

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By the Committee on Infrastructure and Security

596-02379-19

20197034\_\_

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 316.0777, F.S., which provides a public records exemption for certain images and data obtained through the use of an automated license plate recognition system and for personal identifying information of an individual in data generated from such images; removing the scheduled repeal of the exemption; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 316.0777, Florida Statutes, is amended to read:

316.0777 Automated license plate recognition systems; public records exemption.—

(1) As used in this section, the term:

(a) "Active," "criminal intelligence information," and "criminal investigative information" have the same meanings as provided in s. 119.011(3).

(b) "Agency" has the same meaning as provided in s. 119.011.

(c) "Automated license plate recognition system" means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of license plates into computer-readable data.

(d) "Criminal justice agency" has the same meaning as provided in s. 119.011.

(2) The following information held by an agency is

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

596-02379-19

20197034\_\_

confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Images and data containing or providing personal identifying information obtained through the use of an automated license plate recognition system.

(b) Personal identifying information of an individual in data generated or resulting from images obtained through the use of an automated license plate recognition system.

(3) Such information may be disclosed as follows:

(a) Any such information may be disclosed by or to a criminal justice agency in the performance of the criminal justice agency's official duties.

(b) Any such information relating to a license plate registered to an individual may be disclosed to the individual, unless such information constitutes active criminal intelligence information or active criminal investigative information.

(4) This exemption applies to such information held by an agency before, on, or after the effective date of this exemption.

~~(5) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2019.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 7036

INTRODUCER: Infrastructure and Security Committee

SUBJECT: OGSR/Payment of Toll on Toll Facilities/Identifying Information

DATE: March 5, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Price	Miller		<b>IS Submitted as Committee Bill</b>
1.	Hackett	McVaney	GO	<b>Favorable</b>
2.			RC	

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**I. Summary:**

SB 7036 amends s. 388.155, F.S., to save from repeal the exemption from public inspection and copying for personal identifying information held by the Department of Transportation, a county, a municipality, or an expressway authority for the purpose of paying, prepaying, or collecting tolls and associated administrative charges due for the use of toll facilities. The bill removes the scheduled repeal date, resulting in the continuation of the exemption.

The bill is not expected to impact state and local revenues and expenditures.

The bill takes effect October 1, 2019.

**II. Present Situation:**

**Public Records Law**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that:

[i]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.<sup>9</sup> The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup> A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.<sup>11</sup>

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”<sup>12</sup> Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature.

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<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

<sup>10</sup> FLA. CONST., art. I, s. 24(c).

<sup>11</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>12</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>13</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act (“OGSR”) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>14</sup> The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>15</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>16</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>17</sup>
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>18</sup> or
- It protects trade or business secrets.<sup>19</sup>

The OGSR also requires specified questions to be considered during the review process.<sup>20</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>21</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote

<sup>13</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>14</sup> Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to section 119.15(2), F.S.

<sup>15</sup> Section 119.15(3), F.S.

<sup>16</sup> Section 119.15(6)(b), F.S.

<sup>17</sup> Section 119.15(6)(b)1., F.S.

<sup>18</sup> Section 119.15(6)(b)2., F.S.

<sup>19</sup> Section 119.15(6)(b)3., F.S.

<sup>20</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>21</sup> FLA. CONST. art. I, s. 24(c).

for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>22</sup>

### **Payment of Tolls**

Subject to limited exemptions, current law prohibits persons from using any toll facility without payment.<sup>23</sup> The Department of Transportation (FDOT) is authorized to adopt rules relating to the payment, collection, and enforcement of tolls, including, but not limited to, rules for the implementation of video or other image billing and variable pricing.<sup>24</sup> FDOT has implemented two programs for electronic toll collection, SunPass and Toll-By-Plate.

SunPass<sup>25</sup> is a prepaid electronic system of toll collection that utilizes a prepaid account system and electronic devices called transponders that attach to the inside of a vehicle's windshield. When a vehicle equipped with SunPass goes through a tolling location, the transponder sends a signal and the toll is deducted from the customer's prepaid account. SunPass customers typically fund prepaid accounts using credit cards, debit cards, and checks. SunPass account information includes the license plate number, address, and credit card information.<sup>26</sup>

The Toll-By-Plate program<sup>27</sup> is an image-based system of toll collection. Toll-By-Plate takes a photo of a license plate as a vehicle travels through a tolling location, and the system mails a monthly bill for the tolls, including an administrative charge, to the registered owner of the vehicle. Accounts may be set up as pre-paid or post-paid.<sup>28</sup> Accounts may require name, address, email, driver's license number, day time phone number, and credit and debit card numbers.<sup>29</sup>

SunPass is accepted on all Florida toll roads, including Florida express lanes and most bridges. Travelers may also use the system to pay tolls to certain Florida expressway authorities,<sup>30</sup>

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<sup>22</sup> Section 119.15(7), F.S.

<sup>23</sup> Section 338.155(1), F.S. The exemptions generally include toll employees on official state business, state military personnel on official military business, persons exempted by the authorizing resolution for bonds issued to finance the facility, a law enforcement officer operating an official vehicle while on official law enforcement business, a person operating a fire vehicle or a rescue vehicle while on official business, a person participating in the funeral procession of a law enforcement officer killed in the line of duty, and a person with a disability.

<sup>24</sup> *Id.*

<sup>25</sup> See Rule 14-15.0081, F.A.C., for information relating to FDOT's Toll Facilities Description and Toll Rate Schedule.

<sup>26</sup> SunPass, *Open A Private Account*, available at

<https://www.sunpass.com/en/signup/tsignupacknowledge.shtml?acttype=private>. (Last visited December 19, 2018).

<sup>27</sup> See Rule 14-100.005, F.A.C., for additional program information.

<sup>28</sup> *Id.*

<sup>29</sup> For additional information, see Florida's Turnpike Traveler Info, *All Electronic Tolling FAQ, TOLL-BY-PLATE*, available at <http://www.floridasturnpike.com/travelerInfo.html>. (Last visited December 19, 2018).

<sup>30</sup> For example, users of toll facilities of the Central Florida Expressway Authority (CFX) may pay for use of tolls of the FDOT, and vice versa, with either the CFX's E-Pass or the FDOT's SunPass. See Central Florida Expressway Authority, *Differences Between E-Pass & SunPass*, available at: <https://www.cfxway.com/faqs/e-pass-vs-sunpass/>. (Last visited December 18, 2018).



counties, or municipalities,<sup>31</sup> and to use toll facilities in Georgia and North Carolina.<sup>32</sup> Similarly, expressway authorities, counties, and municipalities may collect tolls through the FDOT's Toll-By-Plate system and, in limited cases, local entities may simply collect tolls through their own collection systems.<sup>33</sup>

Regardless of the collection method, customers must provide the required personal identifying information (such as name, address, debit/credit card numbers, checking account numbers, driver license numbers, license plate numbers, etc.) to set up toll payment accounts.

### **Open Government Sunset Review of the Public Records Exemption for Personal Identifying Information of Users of Toll Facilities Held by the FDOT, a County, a Municipality, or an Expressway Authority**

Originally enacted in 1996,<sup>34</sup> the subject exemption was most recently amended in 2014<sup>35</sup> to apply the exemption to the specified personal identifying information held by a municipality, in addition to the FDOT, a county, or an expressway authority, for the purpose of paying, prepaying, or collecting tolls and associated administrative charges due for the use of toll facilities. In revising the exemption, the Legislature found that exempting personal identifying information about individuals held by the FDOT, a county, a municipality, or an expressway authority<sup>36</sup> for the identified purpose is a public necessity.

The Legislature further found that the exemption:

- Puts individuals who pay for tolls by Toll-By-Plate, which is video billed, on equal footing with individuals who pay for tolls by check, debit card, or credit card, or who pay cash at the toll booth.
- Protects the health and safety of the public by making exempt information regarding the locations, travel patterns, and travel activity of individuals as they use the toll road system.
- Protects the anonymity of all travelers on toll roads, not just cash customers, regardless of the method of payment of tolls.
- Promotes the use of the electronic toll collection system, a more efficient and effective government collection system for tolls, because paying for tolls, regardless of the implemented collection methods, saves individuals time when passing through toll facilities, compared to individuals who pay for tolls with cash, but costs much less to administer.
- Protects the privacy of individuals and promotes their right to be let alone from unreasonable government intrusion by prohibiting the public disclosure of private information about the finances and location of the individual using the toll road system.

<sup>31</sup> For example, users of the Broad Causeway in the Town of Bay Harbor Islands pay the tolls through the SunPass System. See Miami Herald, *Bay Harbor Islands toll booths going electronic*, May 20, 2013, available at: <https://www.miamiherald.com/news/local/community/article1951693.html>. (Last visited December 28, 2018).

<sup>32</sup> Additional information on SunPass is available at: <https://www.sunpass.com/en/about/program.shtml>. (Last visited December 18, 2018.) See also SunSentinel, *SunPass now good in both Georgia, N.C.*, November 12, 2014, available at: <http://www.sun-sentinel.com/local/broward/fl-sunpass-georgia-20141112-story.html>. (Last visited December 18, 2018).

<sup>33</sup> For both SunPass and Toll-By-Plate systems, the FDOT often performs "back-office" toll collection for other owners of Florida toll facilities through interoperability agreements authorized by s. 338.161(5), F.S.

<sup>34</sup> Ch. 96-178, Laws of Fla.

<sup>35</sup> Ch. 2014-217, Laws of Fla.

<sup>36</sup> Before, on, or after the effective date of the amended exemption.

Section 338.155(6), F.S., is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Based upon a review of this public records exemption under the Open Government Sunset Review Act, as well as discussions with and recommendations of the FDOT and various counties, municipalities, and expressway authorities, the professional staff of the Senate Infrastructure and Security Committee recommends that the Legislature retain the public records exemption established in s. 338.155(6), F.S.

### **III. Effect of Proposed Changes:**

The bill is based on an Open Government Sunset Review of a public records exemption for personal identifying information held by the FDOT, a county, a municipality, or an expressway authority for the purpose of paying, prepaying, or collecting tolls and associated administrative charges due for the use of toll facilities.

The bill amends s. 338.155(6), F.S., to continue the current public records exemption created in 2014. Records containing the specified personal identifying information will continue to be exempt from public disclosure.

By removing the scheduled repeal of the exemption, the exemption is no longer subject to review under the Open Government Sunset Review Act.

The bill takes effect October 1, 2019.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds, nor does it reduce the authority of counties or municipalities to raise revenue.

#### **B. Public Records/Open Meetings Issues:**

##### ***Vote Requirement***

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

##### ***Public Necessity Statement***

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity

justifying the exemption. This bill continues a current public records exemption without expansion. Thus, a statement of public necessity is not required.

***Breadth of Exemption***

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect personal identifying information related to the payment of tolls for the use of roads. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The private sector will continue to be subject to the cost associated with an agency making redactions in response to a public records request.

**C. Government Sector Impact:**

Governmental agencies will continue to incur costs related to the redaction of records in responding to public records requests.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 338.155 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By the Committee on Infrastructure and Security

596-02381-19

20197036\_\_

1 A bill to be entitled  
 2 An act relating to a review under the Open Government  
 3 Sunset Review Act; amending s. 338.155, F.S., which  
 4 provides an exemption from public records requirements  
 5 for personal identifying information held by the  
 6 Department of Transportation, a county, a  
 7 municipality, or an expressway authority for certain  
 8 purposes; deleting the scheduled repeal of the  
 9 exemption; providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13 Section 1. Subsection (6) of section 338.155, Florida  
 14 Statutes, is amended to read:

15 338.155 Payment of toll on toll facilities required;  
 16 exemptions.—

17 (6) Personal identifying information held by the Department  
 18 of Transportation, a county, a municipality, or an expressway  
 19 authority for the purpose of paying, prepaying, or collecting  
 20 tolls and associated administrative charges due for the use of  
 21 toll facilities is exempt from s. 119.07(1) and s. 24(a), Art. I  
 22 of the State Constitution. This exemption applies to such  
 23 information held by the Department of Transportation, a county,  
 24 a municipality, or an expressway authority before, on, or after  
 25 the effective date of the exemption. ~~This subsection is subject~~  
 26 ~~to the Open Government Sunset Review Act in accordance with s.~~  
 27 ~~119.15 and shall stand repealed on October 2, 2019, unless~~  
 28 ~~reviewed and saved from repeal through reenactment by the~~  
 29 ~~Legislature.~~

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

596-02381-19

20197036\_\_

30 Section 2. This act shall take effect October 1, 2019.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 440

INTRODUCER: Senator Rouson

SUBJECT: Florida Commission on Human Relations

DATE: March 5, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	McVaney	GO	<b>Favorable</b>
2.			JU	
3.			RC	

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**I. Summary:**

SB 440 amends a number of statutes related to the functioning of the Florida Commission on Human Relations (commission). The commission is responsible for investigating and resolving discrimination complaints in the areas of employment, housing, and certain public accommodations, as well as investigating state employee whistle-blower complaints of retaliation.

Specifically, the bill:

- Changes the number of commissioners required for a quorum from seven to a majority of the currently appointed commissioners and establishes a quorum of three for panels.
- Allows the commission to nominate fewer than 10 people for the Florida Civil Rights Hall of Fame each year.
- Requires the commission to notify an aggrieved person of their failure to determine reasonable cause if the commission fails to make a determination within 180 days of the complaint's filing.
- Removes the requirement that facilities and communities designed for the housing of elderly must register with the commission and renew such registration every two years.
- Increases the time period the Attorney General has to resolve a complaint regarding discriminatory practices of certain clubs from 30 to 45 days.
- Alters various deadlines and time constraints regarding the commission's fact-finding investigation period for a retaliation claim.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect July 1, 2019.

## II. Present Situation:

### Florida Civil Rights Act (Part I, Chapter 760, F.S.)

The Florida Civil Rights Act (FCRA) protects persons from discrimination based on race, color, religion, sex, pregnancy, national origin, age, handicap, and marital or familial status. The FCRA establishes the Florida Commission on Human Relations (the commission) within the Department of Management Services. The commission possesses the requisite powers to enforce the FCRA.<sup>1</sup> The Governor appoints, and the Senate confirms, the 12 members of the commission.<sup>2</sup>

### The Florida Commission on Human Relations

The commission is empowered to receive, initiate, investigate, conciliate, and act upon complaints alleging discriminatory practices.<sup>3</sup> Additionally, the Attorney General may initiate a civil action for damages, injunctive relief, civil penalties of up to \$10,000 per violation, and other appropriate relief.<sup>4</sup>

An aggrieved person, the commission, a commissioner, or the Attorney General has 365 days after the alleged violation to file a complaint with the commission.<sup>5</sup> Within 180 days of the filing, the commission must make a determination of whether reasonable cause exists to believe that discriminatory practice has occurred.<sup>6</sup>

If the commission issues a finding of reasonable cause, the aggrieved person may request an administrative hearing or bring civil action.<sup>7</sup> A civil action must be brought within a year of the determination of reasonable cause.<sup>8</sup> The FCRA expressly requires a plaintiff to exhaust his or her administrative remedy as a prerequisite to filing a civil action alleging unlawful discrimination, including housing discrimination.<sup>9</sup> The remedies available through an administrative hearing include back pay and attorney's fees, while remedies available through a civil action include injunctive relief, compensatory damages, punitive damages up to \$100,000, and attorney's fees.<sup>10</sup>

### Quorum for Commission Meeting

The commission is comprised of 12 members. Currently, the commission has just 9 members serving on its board.<sup>11</sup>

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<sup>1</sup> Section 760.06(6), F.S.

<sup>2</sup> Section 760.03(1), F.S.

<sup>3</sup> Section 760.06(5), F.S.

<sup>4</sup> Section 760.021(1), F.S.

<sup>5</sup> Section 760.11(1), F.S.

<sup>6</sup> Section 760.11(3), F.S.

<sup>7</sup> Section 760.11(4), F.S.

<sup>8</sup> Section 760.11(5), F.S. If, however, the commission fails to make a determination of reasonable cause, the four-year statute of limitations for cause of action based on statutory liability applies. *Joshua v. City of Gainesville*, 768 So.2d 432 at 439 (Fla. 2000).

<sup>9</sup> Section 760.07, F.S.

<sup>10</sup> Section 760.11(5), (6), and (7), F.S.

<sup>11</sup> *Commissioners*, Florida Commission on Human Relations, <https://fchr.myflorida.com/fchrcommissioners> (last accessed March 1, 2019).

Current law provides that seven members constitute a quorum for the commission to conduct business.<sup>12</sup> Due to the low number of commissioners currently appointed, the commission has difficulty meeting the seven member quorum. If three members were to resign, the commission could no longer conduct official business at all. Other government entities and commissions may satisfy their quorum requirements with a majority of their currently appointed members.<sup>13</sup>

The commission is also permitted to establish panels of not less than three members to exercise its powers under the Florida Civil Rights Act, subject to procedures and limitations the commission may provide by rule.

### **Halls of Fame in Florida**

It is the intent of the Florida Legislature to recognize and honor those persons, living or dead, who have made significant contributions to this state. The Legislature has established various Halls of Fame including the Florida Women's Hall of fame, Florida Artists Hall of Fame, Florida Educator Hall of Fame, Florida Sports Hall of Fame, and the Florida Civil Rights Hall of Fame. Each year the commission recommends 10 people for induction into the Florida Civil Rights Hall of Fame, from which list the Governor selects up to 3 new members.<sup>14</sup> An eligible nominee must:

- Be at least 18 years of age;
- Have been born in Florida or adopted Florida as his or her home state and base of operations; and
- Have made significant contribution and provided exemplary leadership toward Florida's progress and achievements in civil rights.<sup>15</sup>

The commission has failed to receive the minimum 10 recommendations in some years. In 2014 (6 nominations), 2015 (9), and 2016 (9), the commission faced violating the statute by submitting fewer than 10 recommendations. In each year the governor has selected the maximum three inductees.

### **Fair Housing Act**

Part II of ch. 760, F.S., constitutes the Florida Fair Housing Act, which protects citizens against discrimination in housing practices.<sup>16</sup> The Florida Fair housing Act provides that any person who claims to have been injured by a discriminatory housing practice or who believes that he or she will be injured by a discriminatory housing practice may file a complaint with the commission.<sup>17</sup> The complainant must file the complaint within one year after the alleged discriminatory practice has occurred.<sup>18</sup> The commission has 100 days after receipt of the complaint to complete its

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<sup>12</sup> Section 760.03(5), F.S.

<sup>13</sup> See, e.g. ss. 43.291(6) (Judicial Nominating Commissions), 265.003(3)(b) (Florida Veterans' Hall of Fame), and 456.011(3) (Boards and Commissions within DOH).

<sup>14</sup> Section 760.065(3)(a), F.S.

<sup>15</sup> Section 760.065(3)(b), F.S.

<sup>16</sup> Sections 760.20-760.37, F.S.

<sup>17</sup> Section 760.34(1), F.S.

<sup>18</sup> Section 760.34(2), F.S.



investigation and give notice in writing to the person aggrieved whether it intends to resolve it.<sup>19</sup> The commission may attempt to resolve the complaint and eliminate or correct the alleged discriminatory housing practice through conciliation.<sup>20</sup>

The provisions of the Florida Fair Housing Act apply to all housing and housing-related entities (realtors, brokers, mortgage companies, financial institutions) in Florida. In 2001, the Legislature created exemptions for which charges of housing discrimination do not apply. Certain housing for older persons is exempt from charges of discrimination based on familial status.<sup>21</sup> Housing for older persons is any housing intended for and solely occupied by persons 62 years of age or older, or if occupancy is by persons 55 years of age or older, at least 80 percent of the units are occupied by at least one person age 55 years or older. These facilities must register with the commission and renew such registration every two years, and pay a \$20 fee for registration and renewal.<sup>22</sup> The commission may impose an administrative fine of up to \$500 for submission of false information,<sup>23</sup> but there is no penalty for failure to register with the commission. Failure to register does not prohibit a community from claiming the exemption and the commission does not actively seek out entities that are not registered.

The commission has not charged a fee to register or renew facilities and communities since 2015. The registry is not determinative as to whether the community actually qualifies from the housing for older persons' exemption under the Florida Fair Housing Act. A facility or community that registers is still subject to an investigation if a complaint were filed against it and would have to prove that it meets the exemption. The same is true of a facility or community that has not registered.

### **Whistleblower Investigations**

The commission is authorized to investigate any allegation of an adverse action against a state employee, former employee, applicant for employment, or an employee of a contractor with the state in retaliation for exposing gross mismanagement, fraud, wrongful act, or other violations by state government.<sup>24</sup> When an employer retaliates against an employee who makes such a disclosure (a whistleblower), the whistleblower may make a complaint to either the Inspector General or the commission within 60 days.<sup>25</sup> The office must provide notice of receipt of such a complaint, and the commission will begin a fact finding investigation into the complaint.<sup>26</sup> The commission must investigate the complaint and, if a violation is found, move to protect the whistleblower by petitioning for relief and recommending disciplinary proceedings as they see fit.<sup>27</sup>

If an agency does not implement the recommended action of the commission in 20 days, the commission must terminate its investigation and notify the complainant of the right to appeal to

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<sup>19</sup> Section 760.34(1), F.S.

<sup>20</sup> *Id.*

<sup>21</sup> Section 760.29(4), F.S.

<sup>22</sup> Section 760.29(4)(c), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> *See s. 112.3187(4), (5), (6), and (7).*

<sup>25</sup> Section 112.31895(1), F.S.

<sup>26</sup> Section 112.31895(2), F.S.

<sup>27</sup> Section 112.31895(3), F.S.

the Public Employees Relations Commission or petition the agency for corrective action.<sup>28</sup> A complainant may file a complaint against the employer-agency with the Public Employees Relations Commission after the termination of an investigation by the commission.<sup>29</sup>

If the commission is unable to resolve a complaint within 60 days after receipt of the fact-finding report, the commission must terminate the investigation. The commission must then notify the complainant and agency head of the termination of the investigation, provide a summary of relevant facts found during the investigation, and state the reasons for terminating the investigation.<sup>30</sup>

### **Discriminatory Practices in Certain Clubs**

As part of the Florida Civil Rights Act, the Legislature prohibits certain clubs from discriminating against individuals based on race, color, religion, gender, national origin, handicap, age (above the age of 21), or marital status in evaluating an application for membership.<sup>31</sup> This prohibition only applies to clubs that have more than 400 members, provide regular meal service, and receive payment for dues, fees, use of space, facilities, services, meals, or beverages directly or indirectly from non-members for business purposes.<sup>32</sup> The law also prohibits the publication, circulation, issuance, display, posting, or mailing of any advertisement, notice, or solicitation that contains a statement to the effect that the accommodations, advantages, facilities, membership, or privileges of the club are denied to any individual because of race, color, religion, gender, national origin, handicap, age (above the age of 21), or marital status.<sup>33</sup> This prohibition does not apply to fraternal or benevolent organizations, ethnic clubs, or religious organizations where business activity is not prevalent.<sup>34</sup>

Any person who has been discriminated against by a club meeting these specifications may file a complaint with the commission or with the Attorney General's Office of Civil Rights.<sup>35</sup> Upon receipt, the commission or the Attorney General must provide a copy of the complaint to the club and, within 30 days, investigate the alleged discrimination and inform the complainant in writing if it intends to resolve the complaint.<sup>36</sup>

If the commission or the Attorney General decides to resolve the complaint, it must attempt to eliminate or correct the alleged discriminatory practices of a club by the informal methods of conference, conciliation, and persuasion.<sup>37</sup> If the commission or Attorney General fails to give notice of its intent to eliminate or correct the alleged discriminatory practices of a club within 30 days, or if the commission or Attorney General fails to resolve the complaint within 30 days after giving such notice, the person or the Attorney General on behalf of the person filing the complaint may commence a civil action against the club, its officers, or its members to enforce

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<sup>28</sup> Section 112.31895 (3)(e), F.S.

<sup>29</sup> Section. 112.31895(4)(a), F.S.

<sup>30</sup> Section 112.31895(3)(d), F.S.

<sup>31</sup> Section 760.60(1), F.S.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Section 760.60(2), F.S.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

this section.<sup>38</sup> If the court finds a discriminatory practice has occurred at the club, the court may enjoin the club, its officers, or its members from engaging in such practice or may order other appropriate action.<sup>39</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 760.03, F.S., to change the number of commissioners required for a quorum from seven to a majority of the currently appointed commissioners, avoiding a situation where action needs to be taken but, due to unfilled commissioner slots, having seven commissioners is impracticable. For example, the bill would allow the commission as it sits today to meet and conduct business with five of the nine commissioners. The bill also establishes a quorum of three for panels. The panels require a minimum of three commissioners.

**Section 2** amends s. 760.065, F.S., to allow the commission to nominate fewer than 10 people for the Florida Civil Rights Hall of Fame each year. Currently, the commission must nominate exactly 10 people each year, while the Governor may accept between zero and three new members. This prevents the commission from violating the law when they receive fewer than 10 nominations from which to select.

**Section 3** amends s. 760.11, F.S., to require the commission to notify an aggrieved person of their failure to determine reasonable cause if the Commission fails to make a determination within 180 days of the complaint's filing. It further requires that this notice include a statement of the aggrieved person's rights.

**Section 4** amends s. 760.29, F.S., to remove the requirement that facilities and communities designed for the housing of elderly must register with the commission and renew such registration every two years.

**Section 5** amends s. 760.31, F.S., to remove instructions for fee and forms made obsolete by Section 4.

**Section 6** amends s. 760.60, F.S., to delete the requirement that the commission or the Attorney General investigate the public accommodation discrimination complaint. The bill also extends from 30 days to 45 days the time for the commission or the Attorney General to resolve the dispute.

**Section 7** amends s. 112.31895, F.S., to alter various deadlines and time constraints regarding the commission's fact-finding investigation period for a whistleblower retaliation claim. Specifically, Section 7:

- Increases the time to acknowledge receipt of a complaint from 3 to 5 working days;
- Removes the requirement that the commission separately acknowledge receipt of a complaint;
- Increases the time for the commission to complete its fact-finding report from 90 to 180 days;

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<sup>38</sup> Section 760.60(3), F.S.

<sup>39</sup> *Id.*

- Decreases the time for the commission to terminate its investigation from 60 to 35 days after receipt of the fact-finding report;
- Increases the time for the relevant agency to implement the commission's recommended action from 20 to 35 days; and
- Decreases the time for a complainant to appeal following a notice of termination of the investigation from 60 to 21 days.

These changes bring most of the timeframes for s. 112.31895, F.S., complaint investigations in line with complaints filed with the commission under s. 760.11, F.S.

The bill takes effect July 1, 2019.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Elderly housing organizations will no longer have to register every two years.

**C. Government Sector Impact:**

The Commission will have a longer period of time to investigate whistleblower allegations, which will allow it more freedom in organizing its efforts. The Commission will also no longer have to register elderly housing organizations.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 760.03, 760.065, 760.11, 760.29, 760.31, 760.60, and 112.31895.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

By Senator Rouson

19-00408A-19

2019440\_\_

1 A bill to be entitled  
 2 An act relating to the Florida Commission on Human  
 3 Relations; amending s. 760.03, F.S.; providing quorum  
 4 requirements for the Commission on Human Relations and  
 5 its panels; amending s. 760.065, F.S.; revising the  
 6 number of persons the commission may recommend for the  
 7 Florida Civil Rights Hall of Fame; amending s. 760.11,  
 8 F.S.; requiring the commission to provide notice to an  
 9 aggrieved person under specified circumstances;  
 10 providing notice requirements; providing a limitation  
 11 on the time a civil action may be filed after an  
 12 alleged violation of the Florida Civil Rights Act;  
 13 amending s. 760.29, F.S.; deleting a requirement that  
 14 a facility or community that provides housing for  
 15 older persons register with and submit a letter to the  
 16 commission; amending s. 760.31, F.S.; conforming a  
 17 provision; amending s. 760.60, F.S.; deleting the  
 18 requirement for the commission or Attorney General to  
 19 investigate a complaint of discrimination in  
 20 evaluating an application for club membership;  
 21 revising the length of time the commission or Attorney  
 22 General has to resolve such a complaint; amending s.  
 23 112.31895, F.S.; revising the timeline relating to a  
 24 complaint alleging a prohibited personnel action;  
 25 deleting a requirement that the commission notify a  
 26 complainant upon receipt of the complaint; providing  
 27 an effective date.  
 28  
 29 Be It Enacted by the Legislature of the State of Florida:

Page 1 of 11

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19-00408A-19

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30  
 31 Section 1. Subsection (5) of section 760.03, Florida  
 32 Statutes, is amended to read:  
 33 760.03 Commission on Human Relations; staff.-  
 34 (5) A quorum is necessary for the conduct of official  
 35 business. Unless otherwise provided by law, a quorum consists of  
 36 a majority of the currently appointed commissioners. ~~Seven~~  
 37 ~~members shall constitute a quorum for the conduct of business;~~  
 38 ~~however,~~ The commission may establish panels of not less than  
 39 three of its members to exercise its powers under the Florida  
 40 Civil Rights Act of 1992, subject to such procedures and  
 41 limitations as the commission may provide by rule.  
 42 Notwithstanding this subsection, three appointed members serving  
 43 on panels shall constitute a quorum for the conduct of official  
 44 business of the panel.  
 45 Section 2. Paragraph (a) of subsection (3) of section  
 46 760.065, Florida Statutes, is amended to read:  
 47 760.065 Florida Civil Rights Hall of Fame.-  
 48 (3) (a) The commission shall annually accept nominations for  
 49 persons to be recommended as members of the Florida Civil Rights  
 50 Hall of Fame. The commission shall recommend up to 10 persons  
 51 from which the Governor shall select up to 3 hall-of-fame  
 52 members.  
 53 Section 3. Subsection (8) of section 760.11, Florida  
 54 Statutes, is amended to read:  
 55 760.11 Administrative and civil remedies; construction.-  
 56 (8) ~~If in the event that~~ the commission fails to conciliate  
 57 or determine whether there is reasonable cause on any complaint  
 58 under this section within 180 days of the filing of

Page 2 of 11

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19-00408A-19

2019440\_\_

59 the complaint;<sup>7</sup>

60 (a) An aggrieved person may proceed under subsection (4) if  
 61 as if the commission determined that there was reasonable cause.

62 (b) The commission shall promptly notify the aggrieved  
 63 person of the failure to conciliate or determine whether there  
 64 is reasonable cause. The notice shall provide the options  
 65 available to the aggrieved person under subsection (4) and  
 66 inform the aggrieved person that a civil action is prohibited if  
 67 not filed within 1 year after the date the commission certifies  
 68 that the notice was mailed.

69 (c) Any civil action brought by an aggrieved person under  
 70 this section must be commenced within 1 year after the date the  
 71 commission certifies that the notice was mailed pursuant to  
 72 paragraph (b).

73 Section 4. Subsection (4) of section 760.29, Florida  
 74 Statutes, is amended to read:

75 760.29 Exemptions.—

76 (4) (a) Any provision of ss. 760.20-760.37 regarding  
 77 familial status does not apply with respect to housing for older  
 78 persons.

79 (b) As used in this subsection, the term "housing for older  
 80 persons" means housing:

81 1. Provided under any state or federal program that the  
 82 commission determines is specifically designed and operated to  
 83 assist elderly persons, as defined in the state or federal  
 84 program;

85 2. Intended for, and solely occupied by, persons 62 years  
 86 of age or older; or

87 3. Intended and operated for occupancy by persons 55 years

19-00408A-19

2019440\_\_

88 of age or older that meets the following requirements:

89 a. At least 80 percent of the occupied units are occupied  
 90 by at least one person 55 years of age or older.

91 b. The housing facility or community publishes and adheres  
 92 to policies and procedures that demonstrate the intent required  
 93 under this subparagraph. If the housing facility or community  
 94 meets the requirements of sub-subparagraphs a. and c. and the  
 95 recorded governing documents provide for an adult, senior, or  
 96 retirement housing facility or community and the governing  
 97 documents lack an amendatory procedure, prohibit amendments, or  
 98 restrict amendments until a specified future date, then that  
 99 housing facility or community shall be deemed housing for older  
 100 persons intended and operated for occupancy by persons 55 years  
 101 of age or older. If those documents further provide a  
 102 prohibition against residents 16 years of age or younger, that  
 103 provision shall be construed, for purposes of the Fair Housing  
 104 Act, to only apply to residents 18 years of age or younger, in  
 105 order to conform with federal law requirements. Governing  
 106 documents which can be amended at a future date must be amended  
 107 and properly recorded within 1 year after that date to reflect  
 108 the requirements for consideration as housing for older persons,  
 109 if that housing facility or community intends to continue as  
 110 housing for older persons.

111 c. The housing facility or community complies with rules  
 112 made by the Secretary of the United States Department of Housing  
 113 and Urban Development pursuant to 24 C.F.R. part 100 for  
 114 verification of occupancy, which rules provide for verification  
 115 by reliable surveys and affidavits and include examples of the  
 116 types of policies and procedures relevant to a determination of

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2019440\_\_

117 compliance with the requirements of sub-subparagraph b. Such  
 118 surveys and affidavits are admissible in administrative and  
 119 judicial proceedings for the purposes of such verification.

120 (c) Housing shall not fail to be considered housing for  
 121 older persons if:

122 1. A person who resides in such housing on or after October  
 123 1, 1989, does not meet the age requirements of this subsection,  
 124 provided that any new occupant meets such age requirements; or

125 2. One or more units are unoccupied, provided that any  
 126 unoccupied units are reserved for occupancy by persons who meet  
 127 the age requirements of this subsection.

128 (d) A person shall not be personally liable for monetary  
 129 damages for a violation of this subsection if such person  
 130 reasonably relied in good faith on the application of the  
 131 exemption under this subsection relating to housing for older  
 132 persons. For purposes of this paragraph, a person may show good  
 133 faith reliance on the application of the exemption only by  
 134 showing that:

135 1. The person has no actual knowledge that the facility or  
 136 the community is ineligible, or will become ineligible, for such  
 137 exemption; and

138 2. The facility or community has stated formally, in  
 139 writing, that the facility or community complies with the  
 140 requirements for such exemption.

141 ~~(e) A facility or community claiming an exemption under~~  
 142 ~~this subsection shall register with the commission and submit a~~  
 143 ~~letter to the commission stating that the facility or community~~  
 144 ~~complies with the requirements of subparagraph (b)1.,~~  
 145 ~~subparagraph (b)2., or subparagraph (b)3. The letter shall be~~

Page 5 of 11

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19-00408A-19

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146 ~~submitted on the letterhead of the facility or community and~~  
 147 ~~shall be signed by the president of the facility or community.~~  
 148 ~~This registration and documentation shall be renewed biennially~~  
 149 ~~from the date of original filing. The information in the~~  
 150 ~~registry shall be made available to the public, and the~~  
 151 ~~commission shall include this information on an Internet~~  
 152 ~~website. The commission may establish a reasonable registration~~  
 153 ~~fee, not to exceed \$20, that shall be deposited into the~~  
 154 ~~commission's trust fund to defray the administrative costs~~  
 155 ~~associated with maintaining the registry. The commission may~~  
 156 ~~impose an administrative fine, not to exceed \$500, on a facility~~  
 157 ~~or community that knowingly submits false information in the~~  
 158 ~~documentation required by this paragraph. Such fines shall be~~  
 159 ~~deposited in the commission's trust fund. The registration and~~  
 160 ~~documentation required by this paragraph shall not substitute~~  
 161 ~~for proof of compliance with the requirements of this~~  
 162 ~~subsection. Failure to comply with the requirements of this~~  
 163 ~~paragraph shall not disqualify a facility or community that~~  
 164 ~~otherwise qualifies for the exemption provided in this~~  
 165 ~~subsection.~~

166  
 167 A county or municipal ordinance regarding housing for older  
 168 persons may not contravene the provisions of this subsection.

169 Section 5. Subsection (5) of section 760.31, Florida  
 170 Statutes, is amended to read:

171 760.31 Powers and duties of commission.—The commission  
 172 shall:

173 (5) Adopt rules necessary to implement ss. 760.20-760.37  
 174 and govern the proceedings of the commission in accordance with

Page 6 of 11

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19-00408A-19

2019440\_\_

175 chapter 120. Commission rules shall clarify terms used with  
 176 regard to handicapped accessibility, exceptions from  
 177 accessibility requirements based on terrain or site  
 178 characteristics, and requirements related to housing for older  
 179 persons. ~~Commission rules shall specify the fee and the forms  
 180 and procedures to be used for the registration required by s.  
 181 760.29(4)(c).~~

182 Section 6. Subsections (2) and (3) of section 760.60,  
 183 Florida Statutes, are amended to read:

184 760.60 Discriminatory practices of certain clubs  
 185 prohibited; remedies.-

186 (2) A person who has been discriminated against in  
 187 violation of this act may file a complaint with the Commission  
 188 on Human Relations or with the Attorney General's Office of  
 189 Civil Rights. A complaint must be in writing and must contain  
 190 such information and be in such form as the commission requires.  
 191 Upon receipt of a complaint, the commission or the Attorney  
 192 General shall provide a copy to the person who represents the  
 193 club. Within 30 days after receiving a complaint, the commission  
 194 or the Attorney General shall ~~investigate the alleged~~  
 195 ~~discrimination and~~ give notice in writing to the person who  
 196 filed the complaint if it intends to resolve the complaint. If  
 197 the commission or the Attorney General decides to resolve the  
 198 complaint, it shall attempt to eliminate or correct the alleged  
 199 discriminatory practices of a club by informal methods of  
 200 conference, conciliation, and persuasion.

201 (3) If the commission or the Attorney General fails, within  
 202 30 days after receiving a complaint filed pursuant to subsection  
 203 (2), to give notice of its intent to eliminate or correct the

Page 7 of 11

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19-00408A-19

2019440\_\_

204 alleged discriminatory practices of a club, or if the commission  
 205 or the Attorney General fails to resolve the complaint within 45  
 206 ~~30~~ days after giving such notice, the person or the Attorney  
 207 General on behalf of the person filing the complaint may  
 208 commence a civil action in a court against the club, its  
 209 officers, or its members to enforce this section. If the court  
 210 finds that a discriminatory practice occurs at the club, the  
 211 court may enjoin the club, its officers, or its members from  
 212 engaging in such practice or may order other appropriate action.

213 Section 7. Subsections (1) and (2), paragraphs (d) and (e)  
 214 of subsection (3), and paragraph (a) of subsection (4) of  
 215 section 112.31895, Florida Statutes, are amended to read:

216 112.31895 Investigative procedures in response to  
 217 prohibited personnel actions.-

218 (1) (a) If a disclosure under s. 112.3187 includes or  
 219 results in alleged retaliation by an employer, the employee or  
 220 former employee of, or applicant for employment with, a state  
 221 agency, as defined in s. 216.011, that is so affected may file a  
 222 complaint alleging a prohibited personnel action, which  
 223 complaint must be made by filing a written complaint with the  
 224 Office of the Chief Inspector General in the Executive Office of  
 225 the Governor or the Florida Commission on Human Relations, no  
 226 later than 60 days after the prohibited personnel action.

227 (b) Within 5 ~~three~~ working days after receiving a complaint  
 228 under this section, the office or officer receiving the  
 229 complaint shall acknowledge receipt of the complaint and provide  
 230 copies of the complaint and any other preliminary information  
 231 available concerning the disclosure of information under s.  
 232 112.3187 to each of the other parties named in paragraph (a),

Page 8 of 11

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19-00408A-19 2019440\_\_

233 which parties shall each acknowledge receipt of such copies to  
 234 the complainant.

235 (2) FACT FINDING.—The Florida Commission on Human Relations  
 236 shall:

237 (a) Receive any allegation of a personnel action prohibited  
 238 by s. 112.3187, including a proposed or potential action, and  
 239 conduct informal fact finding regarding any allegation under  
 240 this section, to the extent necessary to determine whether there  
 241 are reasonable grounds to believe that a prohibited personnel  
 242 action under s. 112.3187 has occurred, is occurring, or is to be  
 243 taken.

244 ~~(b) Notify the complainant, within 15 days after receiving~~  
 245 ~~a complaint, that the complaint has been received by the~~  
 246 ~~department.~~

247 (b)(e) Within 180 ~~90~~ days after receiving the complaint,  
 248 provide the agency head and the complainant with a fact-finding  
 249 report that may include recommendations to the parties or  
 250 proposed resolution of the complaint. The fact-finding report  
 251 shall be presumed admissible in any subsequent or related  
 252 administrative or judicial review.

253 (3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

254 (d) If the Florida Commission on Human Relations is unable  
 255 to conciliate a complaint within 35 ~~60~~ days after receipt of the  
 256 fact-finding report, the Florida Commission on Human Relations  
 257 shall terminate the investigation. Upon termination of any  
 258 investigation, the Florida Commission on Human Relations shall  
 259 notify the complainant and the agency head of the termination of  
 260 the investigation, providing a summary of relevant facts found  
 261 during the investigation and the reasons for terminating the

19-00408A-19 2019440\_\_

262 investigation. A written statement under this paragraph is  
 263 presumed admissible as evidence in any judicial or  
 264 administrative proceeding but is not admissible without the  
 265 consent of the complainant.

266 (e)1. The Florida Commission on Human Relations may request  
 267 an agency or circuit court to order a stay, on such terms as the  
 268 court requires, of any personnel action for 45 days if the  
 269 Florida Commission on Human Relations determines that reasonable  
 270 grounds exist to believe that a prohibited personnel action has  
 271 occurred, is occurring, or is to be taken. The Florida  
 272 Commission on Human Relations may request that such stay be  
 273 extended for appropriate periods of time.

274 2. If, in connection with any investigation, the Florida  
 275 Commission on Human Relations determines that reasonable grounds  
 276 exist to believe that a prohibited action has occurred, is  
 277 occurring, or is to be taken which requires corrective action,  
 278 the Florida Commission on Human Relations shall report the  
 279 determination together with any findings or recommendations to  
 280 the agency head and may report that determination and those  
 281 findings and recommendations to the Governor and the Chief  
 282 Financial Officer. The Florida Commission on Human Relations may  
 283 include in the report recommendations for corrective action to  
 284 be taken.

285 3. If, after 35 ~~20~~ days, the agency does not implement the  
 286 recommended action, the Florida Commission on Human Relations  
 287 shall terminate the investigation and notify the complainant of  
 288 the right to appeal under subsection (4), or may petition the  
 289 agency for corrective action under this subsection.

290 4. If the Florida Commission on Human Relations finds, in

19-00408A-19

2019440\_\_

291 consultation with the individual subject to the prohibited  
292 action, that the agency has implemented the corrective action,  
293 the commission shall file such finding with the agency head,  
294 together with any written comments that the individual provides,  
295 and terminate the investigation.

296 (4) RIGHT TO APPEAL.—

297 (a) Not more than 21 ~~60~~ days after receipt of a notice of  
298 termination of the investigation from the Florida Commission on  
299 Human Relations, the complainant may file, with the Public  
300 Employees Relations Commission, a complaint against the  
301 employer-agency regarding the alleged prohibited personnel  
302 action. The Public Employees Relations Commission shall have  
303 jurisdiction over such complaints under ss. 112.3187 and  
304 447.503(4) and (5).

305 Section 8. This act shall take effect July 1, 2019.



The Florida Senate

## Committee Agenda Request

**To:** Senator Ed Hooper, Chair  
Governmental Oversight and Accountability Committee

**Subject:** Committee Agenda Request

**Date:** February 5, 2019

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I respectfully request that **Senate Bill # 440**, relating to Florida Commission on Human Relations, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Darryl Rouson".

---

Senator Darryl Rouson  
Florida Senate, District 19

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/19

Meeting Date

440

Bill Number (if applicable)

Topic Employment discrimination - FCHR

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title \_\_\_\_\_

Address 311 EAST PARK AVENUE

Phone 224-5081

Street

TALLAHASSEE

FL

City

State

Zip

Email ddaniel@smithbrymanandlynn.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA CHAMBER OF COMMERCE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/19  
Meeting Date

440  
Bill Number (if applicable)

Topic SB 440

Amendment Barcode (if applicable)

Name Christopher C. Turner

Job Title Deputy Director Legislative Affairs

Address 4075 Esplanade Way Room 110 Phone \_\_\_\_\_

Street

Tallahassee

City

FL

State

32399

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Commission on Human Relations

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: CS/SB 236

INTRODUCER: Criminal Justice Committee and Senator Book

SUBJECT: Public Records and Public Meetings

DATE: March 5, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Storch</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 236 creates a new public records exemption to make confidential and exempt the complaints, referrals, and reports held by any agency<sup>1</sup> that allege sexual harassment or sexual misconduct. The bill also creates a new public meetings exemption to exempt proceedings that would reveal records involving alleged sexual harassment or sexual misconduct.

The bill expands existing public records and public meetings exemptions to provide that a written request by the alleged violator to make records and proceedings public will not result in the loss of confidential and exempt or exempt status of these records if the complaint or referral involves allegations of sexual harassment or sexual misconduct.

The bill expands an existing public records exemption for the personal identifying information of an alleged victim in an allegation of sexual harassment to include the personal identifying information of an alleged victim of sexual harassment or sexual misconduct, or any information that could assist an individual in determining the identity of such alleged victim.

The bill provides a statement of public necessity as required by the State Constitution.

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<sup>1</sup> Section 119.011(2), F.S., broadly defines agency to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

The bill provides that the exemptions are subject to the Open Government Sunset Review Act, and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Because the bill creates new public records and public meetings exemptions, and expands a current public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill may have an indeterminate fiscal impact on the Commission on Ethics (COE) and possibly other agencies relating to training and redaction of confidential and exempt information. See Section V. Fiscal Impact Statement.

The bill takes effect upon becoming a law.

## II. Present Situation:

### Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>2</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>3</sup>

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.<sup>4</sup> The Public Records Act states that

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.<sup>6</sup> Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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<sup>2</sup> FLA CONST., art. I, s. 24(a).

<sup>3</sup> *Id.*

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).



A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>7</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”<sup>8</sup>

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>9</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>10</sup>

Only the Legislature may create an exemption to public records requirements.<sup>11</sup> An exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>12</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>13</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>14</sup>

When creating or expanding a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”<sup>15</sup> Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>16</sup>

### **Open Meetings Law**

The Florida Constitution provides that the public has a right to access governmental meetings.<sup>17</sup> Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or

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<sup>7</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>8</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>9</sup> Section 119.07(1)(a), F.S.

<sup>10</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>11</sup> FLA. CONST., art. I, s. 24(c).

<sup>12</sup> *Id.*

<sup>13</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>14</sup> FLA. CONST., art. I, s. 24(c).

<sup>15</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

<sup>16</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>17</sup> FLA CONST., art. I, s. 24(b).

discussed.<sup>18</sup> This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts or special districts.<sup>19</sup>

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,”<sup>20</sup> or the “Sunshine Law,”<sup>21</sup> requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.<sup>22</sup> The board or commission must provide the public reasonable notice of such meetings.<sup>23</sup> Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.<sup>24</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>25</sup> Failure to abide by public meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.<sup>26</sup> A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.<sup>27</sup>

The Legislature may create an exemption to public meetings requirements by passing a general law by at least a two-thirds vote of both the Senate and the House of Representatives.<sup>28</sup> The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>29</sup> A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.<sup>30</sup>

The following are general exemptions from the requirement that all meetings of any state agency or authority be open to the public:

- That portion of a meeting that would reveal a security or fire safety system plan; and

<sup>18</sup> *Id.*

<sup>19</sup> FLA CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

<sup>20</sup> *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

<sup>21</sup> *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

<sup>22</sup> Section 286.011(1)-(2), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 286.011(6), F.S.

<sup>25</sup> Section 286.011(2), F.S.

<sup>26</sup> Section 286.011(1), F.S.

<sup>27</sup> Section 286.011(3), F.S.

<sup>28</sup> FLA CONST., art. I, s. 24(c).

<sup>29</sup> *Id.*

<sup>30</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

- Any portion of a team meeting at which negotiation strategies are discussed.<sup>31</sup>

### **The Commission on Ethics**

The State Constitution provides that “[t]here shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.”<sup>32</sup> Section 112.320, F.S., creates the Commission on Ethics (COE). The purpose of the COE is to serve as guardian of the standards of conduct for the officers and employees of the state, and of a county, city, or other political subdivision of the state, as defined in part III of ch. 112, F.S., and to serve as the independent commission provided for by the State Constitution.<sup>33</sup>

The nine-member COE is responsible for investigating and issuing public reports on complaints of breach of public trust by public officers and employees.<sup>34</sup> A “breach of the public trust” is defined as a violation of a provision of the State Constitution or of part III of ch. 112, F.S., which establishes a standard of ethical conduct, a disclosure requirement, or a prohibition applicable to public officers or employees in order to avoid conflicts between public duties and private interests.<sup>35</sup> Examples of a breach of public trust include solicitation or acceptance of gifts, unauthorized compensation, or conflicting employment or contractual relationship.<sup>36</sup>

The law requires the COE to investigate an alleged violation of part III of ch. 112, F.S., or other alleged breach of the public trust within its jurisdiction:

- Upon a written complaint executed on a form prescribed by the COE and signed under oath or affirmation by any person; or
- Upon receipt of a written referral of a possible violation of this part or other possible breach of the public trust from the Governor, the Department of Law Enforcement, a state attorney, or a U.S. Attorney which at least six members of the COE determine is sufficient to indicate a violation of this part or any other breach of the public trust.<sup>37</sup>

A copy of the complaint or referral must be sent to the alleged violator within five days after the receipt of such complaint or a determination that the referral received is sufficient to indicate a violation of part III of ch. 112, F.S., or any other breach of the public trust.<sup>38</sup>

Following receipt of a legally sufficient complaint or referral, the COE will conduct a preliminary investigation to determine whether there is probable cause to believe that a violation has occurred. If at the conclusion of such preliminary investigation the COE finds no probable cause to believe there is a violation or breach of public trust committed, the COE must dismiss

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<sup>31</sup> Section 286.0113, F.S.

<sup>32</sup> FLA. CONST., art. II, s. 8(f).

<sup>33</sup> Section 112.320, F.S.

<sup>34</sup> Florida Commission on Ethics, *About Us*, available at <http://www.ethics.state.fl.us/AboutUs/Index.aspx> (last visited February 4, 2019).

<sup>35</sup> Section 112.312(3), F.S.

<sup>36</sup> See generally Section 112.313, F.S.

<sup>37</sup> Section 112.324(1)(a)-(b), F.S.

<sup>38</sup> Section 112.324(1), F.S.

the complaint or referral. At that point, the complaint or referral becomes a matter of public record.<sup>39</sup>

In contrast, if the COE finds probable cause to believe there is a violation or breach of public trust, the complainant and the alleged violator must be notified in writing. Following such notification, the notice and all documents made or received in the disposition of the complaint or referral then become public record. Any person who the COE finds probable cause to believe has committed a violation or breach of public trust is entitled to a public hearing. On its own motion, the COE may require a public hearing, conduct such further investigation as it deems necessary, or enter into stipulations and settlements as it finds just and in the best interest of the state.<sup>40</sup>

### **Exemption and Confidentiality of COE Complaint Records and Personal Identifying Information of a Victim**

Section 112.324, F.S., provides that the following are confidential and exempt from public disclosure requirements:

- The complaint and records relating to the complaint or to any preliminary investigation held by the COE or its agents, by a commission on ethics and public trust established by any county defined in s. 125.011(1), F.S., or by any municipality defined in s. 165.031, F.S., or by any county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements as provided in s. 112.326, F.S; and
- Written referrals and records relating to such referrals held by the COE or its agents, the Governor, the Department of Law Enforcement, or a state attorney, and records relating to any preliminary investigation of such referrals held by the COE or its agents.<sup>41</sup>

The law also provides that the following are exempt from public meetings requirement:

- Any portion of a proceeding conducted by the COE, a commission on ethics and public trust, or a county or municipality that has established such local investigatory process, pursuant to a complaint or preliminary investigation; and
- Any portion of a proceeding of the COE in which a determination regarding a referral is discussed or acted upon.<sup>42</sup>

The above-discussed public records and public meetings exemptions apply until:

- The complaint is dismissed as legally insufficient;
- The alleged violator requests in writing that such records and proceedings be made public;
- The COE determines that it will not investigate the referral; or
- The COE, a commission on ethics and public trust, or a county or municipality that has established such local investigatory process determines, based on such investigation, whether probable cause exists to believe that a violation has occurred.<sup>43</sup>

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<sup>39</sup> Section 112.324(3), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> Section 112.324(2)(a)-(b), F.S.

<sup>42</sup> Section 112.324(2)(c)-(d), F.S.

<sup>43</sup> Section 112.324(2)(e), F.S.

The public necessity statement justifying the exemption found in s. 112.324, F.S., explained that the “release of such information could potentially be defamatory to an individual under investigation, cause unwarranted damage to the good name or reputation of such individual, or significantly impair the investigation.”<sup>44</sup>

Section 119.071(2)(n), F.S., provides that personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. However, such information may be disclosed to another governmental entity in the furtherance of its official duties and responsibilities. The term “personal identifying information” is not defined for purposes of Chapter 119 nor does this provision include examples of types of personal identifying information that would be exempt under this provision.

### III. Effect of Proposed Changes:

**Section 1** amends s. 112.324, F.S. to continue the confidential and exempt nature of complaints or referrals that involve allegations of sexual harassment or sexual misconduct regardless of a written request by the alleged violator to make such records and proceedings public. By limiting the ability of alleged violator to remove the confidential and exempt status of the records, this exemption is expanded to protect the alleged victim as well as the alleged violator.

Section 1 also prohibits the disclosure of the personal identifying information of an alleged victim of sexual harassment or sexual misconduct or any information that could assist an individual in determining the identity of such alleged victim in a portion of a proceeding conducted by the COE or like local commission which is open to the public.

**Section 2** amends s. 119.071, F.S., to expand the public records exemption to make confidential and exempt the complaints, referrals, and reports that allege sexual harassment or sexual misconduct, and any related records that are held by an agency. Such information may be disclosed to another governmental entity in the furtherance of its official duties and responsibilities.

The bill specifies that the exemption applies until:

- The agency determines that it will not investigate the allegation;
- The agency takes disciplinary action against the subject of the allegation and determines that it will take no further action in the matter; or
- A finding is made as to whether probable cause exists.

The bill expands an existing public records exemption for the personal identifying information of an alleged victim in an allegation of sexual harassment to include the personal identifying information of an alleged victim of sexual harassment or sexual misconduct, or any information that could assist an individual in determining the identity of such alleged victim. Such personal identifying information remains confidential and exempt even in the event that the complaint, referral, or report containing the information becomes public record. The bill provides, however,

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<sup>44</sup> Ch. 2010-130, Laws of Fla.

that such information may be disclosed to another governmental entity in the furtherance of the agency's official duties and responsibilities or to the parties to the allegation and their attorneys.

**Section 3** amends s. 286.0113, F.S., to create a new public meetings exemption to make exempt any portion of a meeting that would reveal any records involving an allegation of sexual harassment or sexual misconduct until:

- The agency determines that it will not investigate the allegation;
- The agency takes disciplinary action against the subject of the allegation and determines that it will take no further action in the matter; or
- A finding is made as to whether probable cause exists.

The bill requires that the personal identifying information of an alleged victim of sexual harassment or sexual misconduct or any information that could assist an individual in determining the identity of such victim that is confidential and exempt pursuant to ch. 119, F.S., is to remain confidential and exempt during any meeting that is open to the public.

**Section 4** sets forth the required public necessity statement. The statement provides as justification for the exemption of complaints, referrals, and reports alleging sexual harassment or sexual misconduct, and any related records, that the release of such information could potentially be defamatory to an individual under investigation, could subject alleged victims to further sexual harassment or retaliation, or could significantly impair the integrity of any investigation of such allegations. The public necessity statement also explains that the potential for disclosure of such information could create a disincentive for alleged victims to report instances of alleged sexual harassment or sexual misconduct.

The public necessity statement also provides justification for the exemptions of any portion of a meeting that would reveal any records involving an allegation of sexual harassment or sexual misconduct and the disclosure of personal identifying information of an alleged victim of sexual harassment or sexual misconduct, or any information that could assist an individual in determining the identity of such alleged victim, by noting that a victim may remain at risk of further harassment and retaliation, and the disclosure of the victim's identity may cause damage to his or her reputation.

**Section 5** provides that the bill is effective upon becoming law.

The public records and public meetings exemptions are subject to the Act pursuant to s. 119.15, F.S., and will be repealed October 2, 2024, unless the Legislature reviews and reenacts the exemptions before that date.

Because the bill creates a new public records and public meetings exemption, and expands a current public record exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### B. Public Records/Public Meetings Issues:

###### *Vote Requirement*

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding exemptions to the public records and public meetings requirements. This bill enacts new exemptions and expands a current exemption. Thus, the bill requires a two-thirds vote to be enacted.

###### *Public Necessity Statement*

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding exemptions to the public records and public meetings requirements to state with specificity the public necessity justifying the exemption. Section 4 of the bill contains a statement of public necessity for the exemptions.

###### *Breadth of Exemption*

Article I, s. 24(c) of the State Constitution requires exemptions to the public records and public meetings requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect victims of sexual harassment or sexual misconduct. There are substantial legislative findings in the statement of public necessity in support of the public records and public meetings exemptions.

The statutory exemption seeks to protect the personal identifying information of an alleged victim of sexual harassment or sexual misconduct or *any information that could assist an individual in determining the identity of such alleged victim*. (Emphasis added) The stated purpose of the exemption is to protect from disclosure the alleged victim's identity "because a victim may remain at risk of further harassment and retaliation, and the disclosure of the victim's identity may cause damage to his or her reputation." The phrase "any information that could assist an individual in determining the identity of such alleged victim" could be interpreted as being open ended as to what type of information may be included and deemed to be covered by the exemption. In *Halifax*, the Supreme Court held that the exemption at issue was unconstitutional for facial overbreadth because the legislature failed to define "strategic plans" and specify the "critical confidential information" (as provided in the public necessity statement) not to be disclosed.<sup>45</sup> In finding the exemption unconstitutional, the Court noted that the legislature had created a "categorical exemption" which reach[ed] far more information than necessary to

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<sup>45</sup> *Halifax*, 724 So. 2d at 570.

accomplish the purpose of the exemption.”<sup>46</sup> Similar to the exemption in *Halifax*, the phrase “any information that could assist an individual in determining the identity of such alleged victim,” may be overbroad as this phrase is undefined and may reach more information than necessary to accomplish the purpose of the exemption. If a court does find the exemption to be overly broad similar to *Halifax*, the remedy may be to strike the entire exemption as unconstitutional.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

No others identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost, to the extent imposed, associated with the agency making redactions in response to public records request.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on the COE and possibly other agencies relating to training and redaction of confidential and exempt information. However, costs may be minimal if they can be absorbed by the COE and other agencies because training and redaction of confidential and exempt information are part of the day-to-day responsibilities of the COE and other agencies.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>46</sup> *Id.*



**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 112.324, 119.071, and 286.0113.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on February 11, 2019:**

The Committee Substitute:

- Clarifies that the Open Government Sunset Review Act applies to the public records and public meetings exemptions in s. 112.324, F.S., that are expanded by the bill; and
- Specifies that the public record exemption expanded by ch. 119, F.S., applies to the personal identifying information of an alleged victim *of sexual harassment or sexual misconduct*.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Book

591-02310-19

2019236c1

1 A bill to be entitled  
 2 An act relating to public records and public meetings;  
 3 amending s. 112.324, F.S.; providing an exception to  
 4 the expiration of certain public records and public  
 5 meetings exemptions under specified circumstances;  
 6 prohibiting the disclosure of the personal identifying  
 7 information of an alleged victim of sexual harassment  
 8 or sexual misconduct, or information that could assist  
 9 an individual in determining the identity of such  
 10 alleged victim, in any portion of a proceeding  
 11 conducted by the Commission on Ethics, a commission on  
 12 ethics and public trust, or a county or a municipality  
 13 that has established a local investigatory process  
 14 which is open to the public; providing for future  
 15 legislative review and repeal; amending s. 119.071,  
 16 F.S.; providing an exemption from public records  
 17 requirements for complaints, referrals, and reports  
 18 alleging sexual harassment or sexual misconduct, and  
 19 any related records, which are held by an agency;  
 20 specifying conditions upon which the exemption  
 21 expires; providing that the personal identifying  
 22 information of an alleged victim of sexual harassment  
 23 or sexual misconduct, or information that could assist  
 24 an individual in determining the identity of such  
 25 alleged victim, remains confidential and exempt from  
 26 public records requirements; authorizing disclosure  
 27 under specified circumstances; providing for future  
 28 legislative review and repeal; amending s. 286.0113,  
 29 F.S.; providing an exemption from public meetings

Page 1 of 8

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591-02310-19

2019236c1

30 requirements for any portion of a meeting that would  
 31 reveal records involving an allegation of sexual  
 32 harassment or sexual misconduct made confidential and  
 33 exempt under the act; specifying conditions upon which  
 34 the exemption expires; prohibiting the disclosure of  
 35 the personal identifying information of an alleged  
 36 victim of sexual harassment or sexual misconduct, or  
 37 information that could assist an individual in  
 38 determining the identity of such alleged victim, in  
 39 any portion of a meeting open to the public; providing  
 40 for future legislative review and repeal; providing  
 41 statements of public necessity; providing an effective  
 42 date.

44 Be It Enacted by the Legislature of the State of Florida:

45  
 46 Section 1. Subsection (2) of section 112.324, Florida  
 47 Statutes, is amended to read:

48 112.324 Procedures on complaints of violations and  
 49 referrals; public records and meeting exemptions.—

50 (2) (a) The complaint and records relating to the complaint  
 51 or to any preliminary investigation held by the commission or  
 52 its agents, by a Commission on Ethics and Public Trust  
 53 established by any county defined in s. 125.011(1) or by any  
 54 municipality defined in s. 165.031, or by any county or  
 55 municipality that has established a local investigatory process  
 56 to enforce more stringent standards of conduct and disclosure  
 57 requirements as provided in s. 112.326 are confidential and  
 58 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

Page 2 of 8

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591-02310-19

2019236c1

59 Constitution.

60 (b) Written referrals and records relating to such  
61 referrals held by the commission or its agents, the Governor,  
62 the Department of Law Enforcement, or a state attorney, and  
63 records relating to any preliminary investigation of such  
64 referrals held by the commission or its agents, are confidential  
65 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
66 Constitution.

67 (c) Any portion of a proceeding conducted by the  
68 commission, a Commission on Ethics and Public Trust, or a county  
69 or municipality that has established such local investigatory  
70 process, pursuant to a complaint or preliminary investigation,  
71 is exempt from s. 286.011, s. 24(b), Art. I of the State  
72 Constitution, and s. 120.525.

73 (d) Any portion of a proceeding of the commission in which  
74 a determination regarding a referral is discussed or acted upon  
75 is exempt from s. 286.011 and s. 24(b), Art. I of the State  
76 Constitution, and s. 120.525.

77 (e) The exemptions in paragraphs (a)-(d) apply until:

78 1. The complaint is dismissed as legally insufficient;

79 2. Except in connection with complaints or referrals that  
80 involve allegations of sexual harassment or sexual misconduct,  
81 the alleged violator requests in writing that such records and  
82 proceedings be made public;

83 3. The commission determines that it will not investigate  
84 the referral; or

85 4. The commission, a commission on ethics and public trust,  
86 or a county or municipality that has established such local  
87 investigatory process determines, based on such investigation,

591-02310-19

2019236c1

88 whether probable cause exists to believe that a violation has  
89 occurred.

90 (f) Notwithstanding paragraph (e), the personal identifying  
91 information of an alleged victim of sexual harassment or sexual  
92 misconduct or any information that could assist an individual in  
93 determining the identity of such alleged victim remains  
94 confidential and exempt as provided under s. 119.071(2)(n)3. and  
95 may not be disclosed in a portion of a proceeding conducted by  
96 the commission, a commission on ethics and public trust, or a  
97 county or municipality that has established such local  
98 investigatory process which is open to the public.

99 (g) This subsection is subject to the Open Government  
100 Sunset Review Act in accordance with s. 119.15 and shall stand  
101 repealed on October 2, 2024, unless reviewed and saved from  
102 repeal through reenactment by the Legislature.

103 (h) ~~(f)~~ A complaint or referral under this part against a  
104 candidate in any general, special, or primary election may not  
105 be filed nor may any intention of filing such a complaint or  
106 referral be disclosed on the day of any such election or within  
107 the 30 days immediately preceding the date of the election,  
108 unless the complaint or referral is based upon personal  
109 information or information other than hearsay.

110 Section 2. Paragraph (n) of subsection (2) of section  
111 119.071, Florida Statutes, is amended to read:

112 119.071 General exemptions from inspection or copying of  
113 public records.—

114 (2) AGENCY INVESTIGATIONS.—

115 (n) 1. Complaints, referrals, and reports that allege sexual  
116 harassment or sexual misconduct, including allegations of sexual

591-02310-19 2019236c1

117 ~~harassment or sexual misconduct in violation of part III of~~  
 118 ~~chapter 112, and any related records that are held by an agency~~  
 119 ~~are Personal identifying information of the alleged victim in an~~  
 120 ~~allegation of sexual harassment is confidential and exempt from~~  
 121 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
 122 Such information may be disclosed to another governmental entity  
 123 in the furtherance of its official duties and responsibilities.  
 124 2. Except as provided in subparagraph 3., the exemption in  
 125 subparagraph 1. applies until:  
 126 a. The agency determines that it will not investigate the  
 127 allegation;  
 128 b. The agency takes disciplinary action against the subject  
 129 of the allegation and determines that it will take no further  
 130 action in the matter; or  
 131 c. A finding is made as to whether probable cause exists.  
 132 3. Notwithstanding the release of any record pursuant to  
 133 subparagraph 2., the personal identifying information of an  
 134 alleged victim of sexual harassment or sexual misconduct or any  
 135 information that could assist an individual in determining the  
 136 identity of such alleged victim, shall remain confidential and  
 137 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 138 Constitution. Such information may be disclosed to another  
 139 governmental entity in the furtherance of the agency's official  
 140 duties and responsibilities or to the parties to the allegation  
 141 and their attorneys.  
 142 4. This paragraph is subject to the Open Government Sunset  
 143 Review Act in accordance with s. 119.15 and shall stand repealed  
 144 on October 2, 2024 2022, unless reviewed and saved from repeal  
 145 through reenactment by the Legislature.

591-02310-19 2019236c1

146 Section 3. Subsection (3) is added to section 286.0113,  
 147 Florida Statutes, to read:  
 148 286.0113 General exemptions from public meetings.—  
 149 (3) (a) Any portion of a meeting that would reveal any  
 150 records involving an allegation of sexual harassment or sexual  
 151 misconduct which are made confidential and exempt by s.  
 152 119.071(2) (n)1. is exempt from s. 286.011 and s. 24(b), Art. I  
 153 of the State Constitution until the agency:  
 154 1. Determines it will not investigate the allegation;  
 155 2. Takes disciplinary action against the subject of the  
 156 allegation and determines it will take no further action; or  
 157 3. Makes a finding as to probable cause.  
 158 (b) Notwithstanding paragraph (a), the personal identifying  
 159 information of an alleged victim of sexual harassment or sexual  
 160 misconduct or any information that could assist an individual in  
 161 determining the identity of such alleged victim remains  
 162 confidential and exempt as provided under s. 119.071(2) (n)3. and  
 163 may not be disclosed in a portion of a meeting that is open to  
 164 the public.  
 165 (c) This subsection is subject to the Open Government  
 166 Sunset Review Act in accordance with s. 119.15 and shall stand  
 167 repealed on October 2, 2024, unless reviewed and saved from  
 168 repeal through reenactment by the Legislature.  
 169 Section 4. (1) The Legislature finds that it is a public  
 170 necessity that complaints, referrals, and reports alleging  
 171 sexual harassment or sexual misconduct, and any related records  
 172 that are held by an agency, be made confidential and exempt from  
 173 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
 174 State Constitution until the agency determines that it will not

591-02310-19

2019236c1

175 investigate the allegation; takes disciplinary action against  
 176 the subject of the allegation and determines it will take no  
 177 further action; or makes a finding as to probable cause. This  
 178 exemption is necessary because the release of such information  
 179 could potentially be defamatory to an individual under  
 180 investigation; could subject alleged victims to further sexual  
 181 harassment or retaliation; or could significantly impair the  
 182 integrity of any investigation of such allegations.  
 183 Additionally, the potential for disclosure of such information  
 184 could create a disincentive for alleged victims to report  
 185 instances of alleged harassment or misconduct. The Legislature  
 186 finds that the potential harm that may result from the release  
 187 of such information outweighs any public benefit that may be  
 188 derived from the disclosure of such information.

189 (2) The Legislature also finds that it is a public  
 190 necessity that any portion of a meeting that would reveal any  
 191 records involving an allegation of sexual harassment or sexual  
 192 misconduct which are made confidential and exempt under s.  
 193 119.071(2)(n)1., Florida Statutes, be made exempt under s.  
 194 286.011, Florida Statutes, and s. 24(b), Article I of the State  
 195 Constitution until the agency determines that it will not  
 196 investigate the allegation; takes disciplinary action against  
 197 the subject of the allegation and determines it will take no  
 198 further action; or makes a finding as to probable cause.  
 199 Furthermore, the Legislature finds that it is a public necessity  
 200 to prohibit the disclosure of the personal identifying  
 201 information of an alleged victim of sexual harassment or sexual  
 202 misconduct, or any information that could assist an individual  
 203 in determining the identity of such alleged victim, in any

Page 7 of 8

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591-02310-19

2019236c1

204 portion of a proceeding conducted by the Commission on Ethics, a  
 205 commission on ethics and public trust, or a county or  
 206 municipality that has established a local investigatory process  
 207 which is open to the public, or any portion of a meeting of any  
 208 board or commission of any state agency or authority or of any  
 209 agency or authority of any county, municipal corporation, or  
 210 political subdivision which is open to the public. The failure  
 211 to close a meeting at which records involving an allegation of  
 212 sexual harassment or sexual misconduct are discussed or acted  
 213 upon would defeat the purpose of the public records exemption.  
 214 The Legislature also finds that it is necessary to maintain the  
 215 confidentiality of an alleged victim's identity after an agency  
 216 determines that it will not investigate the allegation; takes  
 217 disciplinary action against the subject of the allegation and  
 218 determines it will take no further action; or makes a finding as  
 219 to probable cause, because a victim may remain at risk of  
 220 further harassment and retaliation, and the disclosure of the  
 221 victim's identity may cause damage to his or her reputation.

222 Section 5. This act shall take effect upon becoming a law.

Page 8 of 8

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.6.19

Meeting Date

236

Bill Number (if applicable)

Topic Public Records / Public Meetings

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title

Address

Phone 510,9922

Street

Tall

FL

City

State

Zip

Email barney@barneybishop.com

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: CS/SB 574

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Diaz

SUBJECT: Special Risk Class

DATE: March 7, 2019                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	<b>Fav/CS</b>
2.			AEG	
3.			AP	

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**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 574 revises criteria for membership in the Special Risk Class of the Florida Retirement System to include specified employees of the Florida State Hospital, the Northeast Florida State Hospital, the North Florida Evaluation and Treatment Center, and the Sunland Center at Marianna and at Chattahoochee, including the Development Disabilities Defendant Program and Pathways. The bill provides a legislative determination that the act fulfills an important state interest.

The Department of Children and Families (DCF) and the Agency for Persons with Disabilities (APD) will incur higher retirement contributions to fund these enhanced benefits for employees moving from the Regular Class to the Special Risk Class of the Florida Retirement System as specified in the bill. Based on the employer contribution rates in effect today and assuming all positions in the enumerated class codes qualify for Special Risk Class membership, the DCF will incur additional costs of \$3.4 million in FY 2019-2020 and \$6.8 million annually thereafter to shift 1601 positions. APD will incur additional costs of \$1.35 million in FY 2019-2020 and \$2.7 million annually thereafter to shift 668 positions.

The bill takes effect on January 1, 2020.

## II. Present Situation:

### The Florida Retirement System (FRS)

#### *General Background*

The Florida Retirement System (FRS) was established in 1970.<sup>1</sup> The FRS is a multi-employer, contributory plan, governed by the Florida Retirement System Act in Chapter 121, F.S. As of June 30, 2018, the FRS had 643,333 active members, 415,800 annuitants, 16,032 disabled retirees, and 33,432 active participants of the Deferred Retirement Option Program (DROP).<sup>2</sup> As of June 30, 2018, the FRS consisted of 1,002 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, Florida College institutions, and state universities, and also includes the 173 cities and 267 special districts that have elected to join the system.<sup>3</sup>

The membership of the FRS is divided into five membership classes:

- The Regular Class<sup>4</sup> consists of 551,997 active members and 7,349 in renewed membership;
- The Special Risk Class<sup>5</sup> includes 72,642 active members and 976 in renewed membership;
- The Special Risk Administrative Support Class<sup>6</sup> has 87 active members;
- The Elected Officers' Class<sup>7</sup> has 2,050 active members and 120 in renewed membership; and
- The Senior Management Service Class<sup>8</sup> has 7,881 active members and 207 in renewed membership.<sup>9</sup>

Each class is funded separately based upon the costs attributable to the members of that class.

Members of the FRS have two primary plan options available for participation:

- The defined contribution plan, also known as the Investment Plan; and
- The defined benefit plan, also known as the Pension Plan.

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<sup>1</sup> Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, (FRS CAFR) at p. 35. Available online at:

[https://www.rol.frs.state.fl.us/forms/2017-18\\_CAFR.pdf](https://www.rol.frs.state.fl.us/forms/2017-18_CAFR.pdf). (Last visited March 1, 2019.)

<sup>2</sup> *Id.* at p. 160.

<sup>3</sup> *Id.* at 196.

<sup>4</sup> The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

<sup>5</sup> The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

<sup>6</sup> The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

<sup>7</sup> The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

<sup>8</sup> The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

<sup>9</sup> All figures from Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2018, at p. 163.



### ***The Special Risk Class of the FRS***

The Special Risk Class of the FRS consists of state and local government employees who meet the criteria for special risk membership. The class covers persons employed in law enforcement, firefighting, criminal detention, and emergency and forensic medical care who meet statutory criteria for membership as set forth in s. 121.0515, F.S.

When originally establishing the Special Risk Class of membership in the FRS, the Legislature recognized that persons employed in certain categories of positions:

are required to perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity, and that such persons, because of diminishing physical and mental faculties, may find that they are not able, without risk to the health and safety of themselves, the public, or their coworkers, to continue performing such duties and thus enjoy the full career and retirement benefits enjoyed by persons employed in other membership classes and that, if they find it necessary, due to the physical and mental limitations of their age, to retire at an earlier age and usually with less service, they will suffer an economic deprivation therefrom.<sup>10</sup>

Compared to Regular Class members, a person who is a member in the Special Risk Class earns a higher annual service accrual rate, may retire at an earlier age and is eligible to receive higher disability and death benefits. As a result, the contribution rates to fund the normal cost of the Special Risk benefits is higher than the contribution rates to fund the normal cost of the Regular Class benefits. Similarly, the contribution rates to fund the unfunded liabilities of the Special Risk Class is higher than the similar type contribution rates for the Regular Class.

### **Mental Health Treatment Facilities**

The DCF runs three mental health treatment facilities: the Florida State Hospital (FSH); the Northeast Florida State Hospital (NEFSH) and the North Florida Evaluation and Treatment Center (NFETC). The FSH provides civil and forensic services, the NEFSH provides only civil services, and the NFETC only provides forensic services.

The Florida State Hospital, located in Chattahoochee, Florida, is a state psychiatric hospital that provides civil and forensic services.<sup>11</sup> Forensic services for persons who are charged with a felony and have been found to be incompetent to proceed with their trial due to mental illness, or who have been acquitted of a felony by reason of insanity are governed by ss. 916.111 - 916.185, F.S.

The hospital's civil services are comprised of the following three units comprising a total of 490 beds:

- Civil Admissions evaluates and provides psychiatric services primarily for newly admitted acutely ill male and female civil residents between the ages of 18 and 64;

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<sup>10</sup> Section 121.0515(1), F.S.

<sup>11</sup> See <http://www.myflfamilies.com/service-programs/mental-health/fsh/services-programs> (last visited on March 1, 2019).

- Civil Transition Program serves civil residents and individuals previously in a forensic setting who no longer need that level of security and with court approval, may reside in a less restrictive civil environment; and
- Specialty Care Program serves a diverse population of individuals requiring mental health treatment and services, including civil and forensic step downs.

The hospital's forensic services evaluates and treats persons with felony charges who have been adjudicated incompetent to stand trial or not guilty by reason of insanity. Forensic services is comprised of the following two units;

- Forensic Admission is a maximum security facility that assesses new admissions, provides short-term treatment and competency restoration for defendants found incompetent to stand trial, and behavior stabilization for persons committed as not guilty by reason of insanity; and
- Forensic Central provides longer-term treatment and serves a seriously and persistently mentally ill population who are incompetent to proceed or not guilty by reason of insanity.

The Northeast Florida State Hospital (NEFSH), located in Macclenny, Florida, is a state psychiatric hospital that provides civil services.<sup>12</sup> The facility operates 633 beds and is the largest state-owned provider of psychiatric care and treatment to civilly committed individuals in Florida. Referrals are based upon community and regional priorities for admission.

The North Florida Evaluation and Treatment Center (NFETC), located in Gainesville, Florida, is an evaluation and treatment center for people with mental illnesses who are involved in the criminal justice system.<sup>13</sup> The center has 193 beds open for the evaluation and treatment of residents who have major mental disorders. These residents are either incompetent to proceed to trial or have been judged to be not guilty by reason of insanity.

The Agency for Persons with Disabilities operates the Sunland Center in Marianna, the Developmental Disabilities Defendant Program (DDDP) in Chattahoochee, and the Tacachale facility in Gainesville. The Development Disabilities Defendant Program is a 146 bed, co-ed, secure facility, located on the grounds of Florida State Hospital in Chattahoochee, Florida. DDDP is the State of Florida's only admission facility for individuals charged with a felony crime and found to be incompetent to proceed to trial based on a developmental or intellectual disability.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 121.0515, F.S., to add certain employees of the Department of Children and Families and the Agency for Persons with Disabilities to the Special Risk Class of the Florida Retirement System (FRS).

To be eligible for Special Risk Class membership, the employee must be a member of the FRS, spend at least 65 percent of his or her time performing duties that involve contact with patients or inmates at certain DCF and APD facilities, and be employed in the following job classes:

- Abuse registry counselor (class code 5961).

<sup>12</sup> See <http://www.myflfamilies.com/service-programs/mental-health/nefsh/about.shtml> (last visited on March 2, 2019).

<sup>13</sup> See <http://www.myflfamilies.com/service-programs/mental-health/neftc/about.shtml> (last visited on March 2, 2019).

<sup>14</sup> <http://apd.myflorida.com/sunland/about.htm> (last viewed March 1, 2019).

- Barber/beautician (class codes 6201, 6205, and 6206).
- Behavioral program associate (class codes 5750 and 5762).
- Behavioral program specialist (class codes 5751 and 5763).
- Certified radiologic technologist (class codes 5523, 5524, 5527, and 5528).
- Chaplain (class codes 5819 and 5820).
- Child protective investigator (class code 8371).
- Child protective field support consultant (class code 8374).
- Children, youth, and families counselor (class code 5954).
- Classroom teacher (class codes 4144 and 4147).
- Custodial worker (class codes 6511 and 6526).
- Dental assistant (class codes 5632 and 5633).
- Dental hygienist (class code 5641).
- Dental technician (class code 5644).
- Dietetic technician (class code 5594).
- Direct services aide (class code 5702).
- Education and training specialist (class code 1328).
- Food control specialist (class code 6217).
- Food support worker (class code 6213).
- Health support aide (class codes 5504 and 5505).
- Human services counselor (class codes 5934, 5936, 5937, 5940, and 5941).
- Human services program specialist (class code 5877).
- Human services worker (class codes 5706, 5709, 5781, and 5784).
- Librarian (class code 4315).
- Librarian specialist (class codes 4318 and 4319).
- Licensed practical nurse (class code 5599).
- Pharmacy technician (class codes 5500 and 5501).
- Rehabilitation therapist (class codes 5562 and 5563).
- Residential unit specialist (class code 5736).
- Senior chaplain (class code 5823).
- Senior licensed practical nurse (class codes 5597 and 5600)
- Social services counselor (class codes 5953 and 5960).
- Storekeeper (class codes 0918, 0921, and 0922).
- Teacher aide (class codes 4133 and 4142).
- Therapy aide (class codes 5556 and 5557).
- Training specialist (class codes 1322 and 1324).
- Unit treatment and rehab specialist (class codes 5776 and 5791).
- Vocational instructor (class codes 1309, 1310, 1311, 1312, 1313, and 1315).
- Volunteer services center specialist (class code 6000).
- Volunteer services specialist (class code 5997).

The DCF and APD facilities that must employ these members are the Florida State Hospital, the Northeast Florida State Hospital, the North Florida Evaluation and Treatment Center, the Sunland Center at Marianna and at Chattahoochee, including the Development Disabilities

Defendant Program and Pathways. Employees of the Tacachale facility do not appear to qualify for Special Risk Class membership under the bill.

**Section 2** provides a legislative determination that the bill fulfills an important state interest.

**Section 3** provides the bill takes effect January 1, 2020.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not impose, authorize, or raise a state tax or fee.

E. Other Constitutional Issues:

None identified.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill does not impact state and local taxes and fees.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Children and Families (DCF) and the Agency for Persons with Disabilities (APD) will incur higher retirement contributions to fund these enhanced benefits for employees moving from the Regular Class to the Special Risk Class of the Florida Retirement System as specified in the bill. Based on the employer contribution rates in effect today and assuming all positions in the enumerated class codes qualify for Special Risk Class membership, the DCF will incur an additional \$3.4 million in FY

2019-2020 and \$6.8 million annually thereafter to shift 1601 positions. APD will incur an additional \$1.35 million in FY 2019-2020 and \$2.7 million annually thereafter to shift 668 positions.

#### VI. Technical Deficiencies:

Traditionally, when a new cohort of employees are made eligible for membership in the Special Risk Class of the Florida Retirement System, s. 121.0515(2), F.S., is amended to describe the membership of the group. Subsection (3) of s. 121.0515, F.S., is amended to describe the unique criteria that the new cohort must meet. To continue this methodology of authorizing new members for Special Risk, the Legislature may want to consider the following amendment to clearly expand the membership of the Special Risk Class.

“(2) MEMBERSHIP

(i) Effective January 1, 2020, “special risk member” includes any member who meets the special criteria set forth in paragraph (3)(j).”

#### VII. Related Issues:

Although not included in the enumerated list of class codes, the supervisors of these members are eligible to petition the State Retirement Commission for membership if the supervisors can demonstrate that they have similar qualifying duties as the enumerated employees.

#### VIII. Statutes Affected:

This bill substantially amends the section 121.0515 of the Florida Statutes.

#### IX. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Governmental Oversight and Accountability on March 6, 2019:**

The committee substitute reinstates current law provisions relating to the primary duties and responsibilities that must be met by a correctional officer to be eligible for Special Risk Class membership in the Florida Retirement System.

- B. Amendments:

None.



133006

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2019	.	
	.	
	.	
	.	

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The Committee on Governmental Oversight and Accountability  
(Hooper) recommended the following:

**Senate Amendment**

Delete line 63  
and insert:  
member's primary duties and responsibilities must be the

By Senator Diaz

36-00530-19

2019574\_\_

1 A bill to be entitled  
 2 An act relating to the Special Risk Class; amending s.  
 3 121.0515, F.S.; adding to the class certain employees  
 4 of specified state hospitals and other facilities who  
 5 spend a certain amount of time performing duties that  
 6 involve contact with patients or inmates; conforming  
 7 cross-references; declaring that the act fulfills an  
 8 important state interest; providing an effective date.  
 9  
 10 Be It Enacted by the Legislature of the State of Florida:  
 11  
 12 Section 1. Paragraph (h) of subsection (2), subsection (3),  
 13 and paragraph (d) of subsection (8) of section 121.0515, Florida  
 14 Statutes, are amended to read:  
 15 121.0515 Special Risk Class.—  
 16 (2) MEMBERSHIP.—  
 17 (h) Effective August 1, 2008, "special risk member"  
 18 includes any member who meets the special criteria for continued  
 19 membership set forth in paragraph (3) (k) ~~(3) (j)~~.  
 20 (3) CRITERIA.—A member, to be designated as a special risk  
 21 member, must meet the following criteria:  
 22 (a) Effective October 1, 1978, the member must be employed  
 23 as a law enforcement officer and be certified, or required to be  
 24 certified, in compliance with s. 943.1395, ~~except that, however,~~  
 25 sheriffs and elected police chiefs are not required to be  
 26 certified ~~excluded from meeting the certification requirements~~  
 27 ~~of this paragraph~~. In addition, the member's duties and  
 28 responsibilities must include the pursuit, apprehension, and  
 29 arrest of law violators or suspected law violators; or as of

Page 1 of 11

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

36-00530-19

2019574\_\_

30 July 1, 1982, the member must be an active member of a bomb  
 31 disposal unit whose primary responsibility is the location,  
 32 handling, and disposal of explosive devices; or the member must  
 33 be the supervisor or command officer of a member or members who  
 34 have such responsibilities. Administrative support personnel,  
 35 including, but not limited to, those whose primary duties and  
 36 responsibilities are in accounting, purchasing, legal, and  
 37 personnel, are not included;  
 38 (b) Effective October 1, 1978, the member must be employed  
 39 as a firefighter and be certified, or required to be certified,  
 40 in compliance with s. 633.408 and be employed solely within the  
 41 fire department of a local government employer or an agency of  
 42 state government with firefighting responsibilities. In  
 43 addition, the member's duties and responsibilities must include  
 44 on-the-scene fighting of fires; as of October 1, 2001, fire  
 45 prevention or firefighter training; as of October 1, 2001,  
 46 direct supervision of firefighting units, fire prevention, or  
 47 firefighter training; or as of July 1, 2001, aerial firefighting  
 48 surveillance performed by fixed-wing aircraft pilots employed by  
 49 the Florida Forest Service of the Department of Agriculture and  
 50 Consumer Services; or the member must be the supervisor or  
 51 command officer of a member or members who have such  
 52 responsibilities. Administrative support personnel, including,  
 53 but not limited to, those whose primary duties and  
 54 responsibilities are in accounting, purchasing, legal, and  
 55 personnel, are not included. All periods of creditable service  
 56 in fire prevention or firefighter training, or as the supervisor  
 57 or command officer of a member or members who have such  
 58 responsibilities, and for which the employer paid the special

Page 2 of 11

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36-00530-19

2019574\_\_

59 risk contribution rate, are included;

60 (c) Effective October 1, 1978, the member must be employed  
61 as a correctional officer and be certified, or required to be  
62 certified, in compliance with s. 943.1395. In addition, the  
63 member's primary duties and responsibilities must include ~~be~~ the  
64 custody, and physical restraint ~~if when~~ necessary, of prisoners  
65 or inmates within a prison, jail, or other criminal detention  
66 facility, or while on work detail outside the facility, or while  
67 being transported; or as of July 1, 1984, the member must be the  
68 supervisor or command officer of a member or members who have  
69 such responsibilities. Administrative support personnel,  
70 including, but not limited to, those whose primary duties and  
71 responsibilities are in accounting, purchasing, legal, and  
72 personnel, are not included; however, wardens and assistant  
73 wardens, as defined by rule, are included;

74 (d) Effective October 1, 1999, the member must be employed  
75 by a licensed Advance Life Support (ALS) or Basic Life Support  
76 (BLS) employer as an emergency medical technician or a paramedic  
77 and be certified in compliance with s. 401.27. In addition, the  
78 member's primary duties and responsibilities must include on-  
79 the-scene emergency medical care or as of October 1, 2001,  
80 direct supervision of emergency medical technicians or  
81 paramedics, or the member must be the supervisor or command  
82 officer of one or more members who have such responsibility.  
83 Administrative support personnel, including, but not limited to,  
84 those whose primary responsibilities are in accounting,  
85 purchasing, legal, and personnel, are not included;

86 (e) Effective January 1, 2001, the member must be employed  
87 as a community-based correctional probation officer and be

Page 3 of 11

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36-00530-19

2019574\_\_

88 certified, or required to be certified, in compliance with s.  
89 943.1395. In addition, the member's primary duties and  
90 responsibilities must be the supervised custody, surveillance,  
91 control, investigation, and counseling of assigned inmates,  
92 probationers, parolees, or community controllees within the  
93 community; or the member must be the supervisor of a member or  
94 members who have such responsibilities. Administrative support  
95 personnel, including, but not limited to, those whose primary  
96 duties and responsibilities are in accounting, purchasing, legal  
97 services, and personnel management, are not included; however,  
98 probation and parole circuit and deputy circuit administrators  
99 are included;

100 (f) Effective January 1, 2001, the member must be employed  
101 in one of the following classes and must spend at least 75  
102 percent of his or her time performing duties that ~~which~~ involve  
103 contact with patients or inmates in a correctional or forensic  
104 facility or institution:

- 105 1. Dietitian (class codes 5203 and 5204);
- 106 2. Public health nutrition consultant (class code 5224);
- 107 3. Psychological specialist (class codes 5230 and 5231);
- 108 4. Psychologist (class code 5234);
- 109 5. Senior psychologist (class codes 5237 and 5238);
- 110 6. Regional mental health consultant (class code 5240);
- 111 7. Psychological Services Director—DCF (class code 5242);
- 112 8. Pharmacist (class codes 5245 and 5246);
- 113 9. Senior pharmacist (class codes 5248 and 5249);
- 114 10. Dentist (class code 5266);
- 115 11. Senior dentist (class code 5269);
- 116 12. Registered nurse (class codes 5290 and 5291);

Page 4 of 11

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36-00530-19 2019574\_\_

117 13. Senior registered nurse (class codes 5292 and 5293);

118 14. Registered nurse specialist (class codes 5294 and

119 5295);

120 15. Clinical associate (class codes 5298 and 5299);

121 16. Advanced practice registered nurse (class codes 5297

122 and 5300);

123 17. Advanced practice registered nurse specialist (class

124 codes 5304 and 5305);

125 18. Registered nurse supervisor (class codes 5306 and

126 5307);

127 19. Senior registered nurse supervisor (class codes 5308

128 and 5309);

129 20. Registered nursing consultant (class codes 5312 and

130 5313);

131 21. Quality management program supervisor (class code

132 5314);

133 22. Executive nursing director (class codes 5320 and 5321);

134 23. Speech and hearing therapist (class code 5406); or

135 24. Pharmacy manager (class code 5251);

136 (g) Effective October 1, 2005, through June 30, 2008, the

137 member must be employed by a law enforcement agency or medical

138 examiner's office in a forensic discipline recognized by the

139 International Association for Identification and must qualify

140 for active membership in the International Association for

141 Identification. The member's primary duties and responsibilities

142 must include the collection, examination, preservation,

143 documentation, preparation, or analysis of physical evidence or

144 testimony, or both, or the member must be the direct supervisor,

145 quality management supervisor, or command officer of one or more

36-00530-19 2019574\_\_

146 individuals with such responsibility. Administrative support

147 personnel, including, but not limited to, those whose primary

148 responsibilities are clerical or in accounting, purchasing,

149 legal, and personnel, are not included;

150 (h) Effective July 1, 2008, the member must be employed by

151 the Department of Law Enforcement in the crime laboratory or by

152 the Division of State Fire Marshal in the forensic laboratory in

153 one of the following classes:

154 1. Forensic technologist (class code 8459);

155 2. Crime laboratory technician (class code 8461);

156 3. Crime laboratory analyst (class code 8463);

157 4. Senior crime laboratory analyst (class code 8464);

158 5. Crime laboratory analyst supervisor (class code 8466);

159 6. Forensic chief (class code 9602); or

160 7. Forensic services quality manager (class code 9603);

161 (i) Effective July 1, 2008, the member must be employed by

162 a local government law enforcement agency or medical examiner's

163 office and must spend at least 65 percent of his or her time

164 performing duties that involve the collection, examination,

165 preservation, documentation, preparation, or analysis of human

166 tissues or fluids or physical evidence having potential

167 biological, chemical, or radiological hazard or contamination,

168 or use chemicals, processes, or materials that may have

169 carcinogenic or health-damaging properties in the analysis of

170 such evidence, or the member must be the direct supervisor of

171 one or more individuals having such responsibility. If a special

172 risk member changes to another position within the same agency,

173 he or she must submit a complete application as provided in

174 paragraph (4) (a);

36-00530-19 2019574\_\_

175 (j) Effective January 1, 2020, the member must be employed  
 176 in any of the following classes and must spend at least 65  
 177 percent of his or her time performing duties that involve  
 178 contact with patients or inmates at Florida State Hospital;  
 179 Northeast Florida State Hospital; Sunland Center at Marianna and  
 180 at Chattahoochee, including the Developmental Disabilities  
 181 Defendant Program and Pathways; or the North Florida Evaluation  
 182 and Treatment Center:

- 183 1. Abuse registry counselor (class code 5961);
- 184 2. Barber/beautician (class codes 6201, 6205, and 6206);
- 185 3. Behavioral program associate (class codes 5750 and  
 186 5762);
- 187 4. Behavioral program specialist (class codes 5751 and  
 188 5763);
- 189 5. Certified radiologic technologist (class codes 5523,  
 190 5524, 5527, and 5528);
- 191 6. Chaplain (class codes 5819 and 5820);
- 192 7. Child protective investigator (class code 8371);
- 193 8. Child protective field support consultant (class code  
 194 8374);
- 195 9. Children, youth, and families counselor (class code  
 196 5954);
- 197 10. Classroom teacher (class codes 4144 and 4147);
- 198 11. Custodial worker (class codes 6511 and 6526);
- 199 12. Dental assistant (class codes 5632 and 5633);
- 200 13. Dental hygienist (class code 5641);
- 201 14. Dental technician (class code 5644);
- 202 15. Dietetic technician (class code 5594);
- 203 16. Direct services aide (class code 5702);

36-00530-19 2019574\_\_

204 17. Education and training specialist (class code 1328);  
 205 18. Food control specialist (class code 6217);  
 206 19. Food support worker (class code 6213);  
 207 20. Health support aide (class codes 5504 and 5505);  
 208 21. Human services counselor (class codes 5934, 5936, 5937,  
 209 5940, and 5941);  
 210 22. Human services program specialist (class code 5877);  
 211 23. Human services worker (class codes 5706, 5709, 5781,  
 212 and 5784);  
 213 24. Librarian (class code 4315);  
 214 25. Librarian specialist (class codes 4318 and 4319);  
 215 26. Licensed practical nurse (class code 5599);  
 216 27. Pharmacy technician (class codes 5500 and 5501);  
 217 28. Rehabilitation therapist (class codes 5562 and 5563);  
 218 29. Residential unit specialist (class code 5736);  
 219 30. Senior chaplain (class code 5823);  
 220 31. Senior licensed practical nurse (class codes 5597 and  
 221 5600);  
 222 32. Social services counselor (class codes 5953 and 5960);  
 223 33. Storekeeper (class codes 0918, 0921, and 0922);  
 224 34. Teacher aide (class codes 4133 and 4142);  
 225 35. Therapy aide (class codes 5556 and 5557);  
 226 36. Training specialist (class codes 1322 and 1324);  
 227 37. Unit treatment and rehab specialist (class codes 5776  
 228 and 5791);  
 229 38. Vocational instructor (class codes 1309, 1310, 1311,  
 230 1312, 1313, and 1315);  
 231 39. Volunteer services center specialist (class code 6000);  
 232 40. Volunteer services specialist (class code 5997); or

36-00530-19

2019574

233 ~~(k)(j)~~ The member must have already qualified for and be  
 234 actively participating in special risk membership under  
 235 paragraph (a), paragraph (b), or paragraph (c), must have  
 236 suffered a qualifying injury as defined in this paragraph, must  
 237 not be receiving disability retirement benefits as provided in  
 238 s. 121.091(4), and must satisfy the requirements of this  
 239 paragraph.

240 1. The ability to qualify for the class of membership  
 241 defined in paragraph (2) (h) occurs when two licensed medical  
 242 physicians, one of whom is a primary treating physician of the  
 243 member, certify the existence of the physical injury and medical  
 244 condition that constitute a qualifying injury as defined in this  
 245 paragraph and ~~that~~ the member has reached maximum medical  
 246 improvement after August 1, 2008. The certifications from the  
 247 licensed medical physicians must include, at a minimum, that the  
 248 injury to the special risk member has resulted in a physical  
 249 loss, or loss of use, of at least two of the following: left  
 250 arm, right arm, left leg, or right leg; and that:

251 a. ~~The That this~~ physical loss or loss of use is total and  
 252 permanent, unless ~~except if~~ the loss of use is due to a physical  
 253 injury to the member's brain, in which event the loss of use is  
 254 permanent with at least 75 percent loss of motor function with  
 255 respect to each arm or leg affected.

256 b. ~~The That this~~ physical loss or loss of use renders the  
 257 member physically unable to perform the essential job functions  
 258 of his or her special risk position.

259 c. ~~That,~~ Notwithstanding this physical loss or loss of use,  
 260 the individual can perform the essential job functions required  
 261 by the member's new position, as provided in subparagraph 3.

36-00530-19

2019574

262 d. ~~That~~ Use of artificial limbs is not possible or does not  
 263 alter the member's ability to perform the essential job  
 264 functions of the member's position.

265 e. ~~That~~ The physical loss or loss of use is a direct result  
 266 of a physical injury and not a result of any mental,  
 267 psychological, or emotional injury.

268 2. For the purposes of this paragraph, "qualifying injury"  
 269 means an injury sustained in the line of duty, as certified by  
 270 the member's employing agency, by a special risk member which  
 271 ~~that~~ does not result in total and permanent disability as  
 272 defined in s. 121.091(4) (b). An injury is a qualifying injury if  
 273 the injury is a physical injury to the member's physical body  
 274 resulting in a physical loss, or loss of use, of at least two of  
 275 the following: left arm, right arm, left leg, or right leg.  
 276 Notwithstanding any other provision of this section, an injury  
 277 that would otherwise qualify as a qualifying injury is not  
 278 ~~considered~~ a qualifying injury if and when the member ceases  
 279 employment with the employer for whom he or she was providing  
 280 special risk services on the date the injury occurred.

281 3. The new position, as described in sub-subparagraph 1.c.,  
 282 which ~~that~~ is required for qualification as a special risk  
 283 member under this paragraph is not required to be a position  
 284 with essential job functions that entitle an individual to  
 285 special risk membership. Whether a new position as described in  
 286 sub-subparagraph 1.c. exists and is available to the special  
 287 risk member is a decision to be made solely by the employer in  
 288 accordance with its hiring practices and applicable law.

289 4. This paragraph does not grant or create additional  
 290 rights for any individual to continued employment or to be hired

36-00530-19

2019574\_\_

291 or rehired by his or her employer which ~~that~~ are not already  
292 provided by state law within the Florida Statutes, the State  
293 Constitution, the Americans with Disabilities Act, if  
294 applicable, or any other ~~applicable state or~~ federal law.

295 (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

296 (d) Notwithstanding any other provision of this subsection,  
297 this subsection does not apply to any special risk member who  
298 qualifies for continued membership pursuant to paragraph (3) (k)  
299 ~~(3) (j)~~.

300 Section 2. The Legislature finds that a proper and  
301 legitimate state purpose is served when employees and retirees  
302 of the state and its political subdivisions, and the dependents,  
303 survivors, and beneficiaries of such employees and retirees, are  
304 extended the basic protections afforded by governmental  
305 retirement systems. These persons must be provided benefits that  
306 are fair and adequate and are managed, administered, and funded  
307 in an actuarially sound manner, as required by s. 14, Article X  
308 of the State Constitution and part VII of chapter 112, Florida  
309 Statutes. Therefore, the Legislature determines and declares  
310 that this act fulfills an important state interest.

311 Section 3. This act shall take effect January 1, 2020.



The Florida Senate

## Committee Agenda Request

**To:** Senator Ed Hooper, Chair  
Committee on Governmental Oversight and Accountability


**Subject:** Committee Agenda Request

**Date:** February 29, 2019

---

I respectfully request that **Senate Bill # 574**, relating to Special Risk Class, be placed on the:

- Committee agenda at your earliest possible convenience.
- Next committee agenda.



---

Senator Manny Diaz, Jr.  
Florida Senate, District 36

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 / 6 / 19  
Meeting Date

SB 574  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Rich Templin

Job Title \_\_\_\_\_

Address 135 S. Monroe  
Street

Phone 850 - 224 - 6926

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida AFL - CIO

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03-06-19

Meeting Date

0574

Bill Number (if applicable)

Topic Special Risk Class

Amendment Barcode (if applicable)

Name JoAnne Alvarez

Job Title 911 Telecommunicator / BSO

Address 1037 NW 81 Terrace

Phone 954-629-9970

Street

Plantation FL 33322

City

State

Zip

Email jostianne5301@yahoo.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing myself

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-6-19

Meeting Date

0574

Bill Number (if applicable)

Topic SPECIAL RISK CLASS

Amendment Barcode (if applicable)

Name ~~ANTHONY NORCIANO~~ ~~ANTHONY NORCIANO~~ <sup>Set</sup> ANTHONY NORCIANO

Job Title SERGEANT (BSO)

Address 23370 CAROLWOOD LN.  
Street

Phone 954 632 6878

BOCA RATON FL 33428  
City State Zip

Email AKTDM@ATT.NET

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing MYSELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/19

Meeting Date

574

Bill Number (if applicable)

Topic Special Risk class

Amendment Barcode (if applicable)

Name Jacqui Carmona

Job Title Political Director AFSCME FL

Address 700 S Royal Poinciana Blvd

Phone (305) 783 4558

Street Miami FL 33136

Email jcarmona@afscme1.org

City State Zip

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing AFSCME FL

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

574  
~~534~~

3/6/19  
Meeting Date

\_\_\_\_\_  
Bill Number (if applicable)

Topic \_\_\_\_\_

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name Ken Williams

Job Title \_\_\_\_\_

Address 7411 Meadow Dr  
Street

Phone 813-493-7685

Temph \_\_\_\_\_  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: CS/CS/SB 248

INTRODUCER: Governmental Oversight and Accountability Committee; Criminal Justice Committee and Senator Hooper and others

SUBJECT: Public Records/Civilian Personnel Employed by a Law Enforcement Agency

DATE: March 6, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 248 amends s. 119.071(4)(d), F.S., which contains several public records exemptions for home addresses and various other information identifying specified agency personnel and their families.

Current law provides an exemption from public disclosure for certain personal and location identification information, including home addresses, for various public employees, such as law enforcement officers, firefighters, judges, state attorneys, public defenders, and various investigators. However, the term “home addresses” is currently undefined and has been interpreted differently by the various custodians of the public records. The bill defines the term “home addresses” to include various location information, including the physical address, the mailing address, the street address, the parcel identification number, the plot identification number, the legal description of the property, GPS coordinates, and other descriptive property information that may reveal the location of the residence. This definition only applies to the exemptions codified in s. 119.091(4)(d), F.S., relating to public employees.

The bill also amends s. 119.071(4)(d)2.a., F.S., to create a new public records exemption for:

- Home addresses, telephone numbers, dates of birth, and photographs of active or former civilian personnel employed by a law enforcement agency;
- Names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and

- Names and locations of schools and day care facilities attended by the children of such personnel.

The bill provides that those persons whose information is protected by the public records exemption may, in writing, request that information be released.

The bill provides a statement of public necessity as required by the State Constitution.

Current law repeals various exemptions codified in s. 119.071(4)(d), F.S., in 2019 through 2022, and subjects those exemptions to the Open Government Sunset Review Act. The bill eliminates all currently scheduled repeals of those exemptions and repeals all exemptions codified in s. 119.071(4)(d) on October 2, 2024, subject to the Open Government Sunset Review Act.

Because the bill creates a new public records exemption and expands other public records exemptions, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill takes effect July 1, 2019.

## II. Present Situation:

### Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.<sup>3</sup> The Public Records Act states

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>4</sup>

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.<sup>5</sup> Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> Public records laws are found throughout the Florida Statutes.

<sup>4</sup> Section 119.01(1), F.S.

<sup>5</sup> *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”<sup>7</sup>

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>8</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>9</sup>

Only the Legislature may create an exemption to public records requirements.<sup>10</sup> An exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>11</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>12</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>13</sup>

When creating or expanding a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”<sup>14</sup> Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,<sup>16</sup> with

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<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.07(1)(a), F.S.

<sup>9</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>10</sup> FLA. CONST., art. I, s. 24(c).

<sup>11</sup> *Id.*

<sup>12</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>13</sup> FLA. CONST., art. I, s. 24(c).

<sup>14</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>16</sup> Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the

specified exceptions.<sup>17</sup> It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>18</sup> The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.<sup>19</sup>

**Public Records Exemptions for Specified Agency Personnel and Their Families**  
**(s. 119.071(4)(d), F.S)**

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure certain personal identification and location information of specified agency personnel and their spouses and children. Personnel covered by these exemptions include:

- Active or former sworn or civilian law enforcement personnel, including correctional and correctional probation officers, certain investigative personnel of the Department of Children and Families and Department of Health, and certain personnel of the Department of Revenue and local governments involved in revenue collection and revenue and child support enforcement;<sup>20</sup>
- Certain current or former nonsworn investigative personnel of the Department of Financial Services;<sup>21</sup>
- Certain current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations;<sup>22</sup>
- Current or former certified firefighters;<sup>23</sup>
- Current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges;<sup>24</sup>
- Current or former state attorneys, assistant state attorneys, statewide prosecutors, and assistant statewide prosecutors;<sup>25</sup>
- General magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers;<sup>26</sup>
- Certain current or former human resource, labor relations, or employee relations directors, assistant directors, managers, and assistant managers of any local government agency or water management district;<sup>27</sup>
- Current or former code enforcement officers;<sup>28</sup>

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Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

<sup>17</sup> Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>18</sup> Section 119.15(3), F.S.

<sup>19</sup> Section 119.15(6)(b), F.S.

<sup>20</sup> Section 119.071(4)(d)2.a., F.S.

<sup>21</sup> Section 119.071(4)(d)2.b., F.S.

<sup>22</sup> Section 119.071(4)(d)2.c., F.S.

<sup>23</sup> Section 119.071(4)(d)2.d., F.S.

<sup>24</sup> Section 119.071(4)(d)2.e., F.S.

<sup>25</sup> Section 119.071(4)(d)2.f., F.S.

<sup>26</sup> Section 119.071(4)(d)2.g., F.S.

<sup>27</sup> Section 119.071(4)(d)2.h., F.S.

<sup>28</sup> Section 119.071(4)(d)2.i., F.S.

- Current or former guardians ad litem;<sup>29</sup>
- Current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice;<sup>30</sup>
- Current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel;<sup>31</sup>
- Current or former investigators or inspectors of the Department of Business and Professional Regulation;<sup>32</sup>
- County tax collectors;<sup>33</sup>
- Certain current or former personnel of the Department of Health;<sup>34</sup>
- Certain current or former impaired practitioner consultants who are retained by an agency and certain current or former employees of an impaired practitioner consultant;<sup>35</sup>
- Current or former certified emergency medical technicians and paramedics;<sup>36</sup>
- Certain current or former personnel employed in an agency's office of inspector general or internal audit department;<sup>37</sup>
- Current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility;<sup>38</sup> and
- Current or former directors, managers, supervisors, and clinical employees of certain child advocacy centers.<sup>39</sup>

The employing agency as well as the employee may assert the right to the exemption by submitting a written request to each agency which holds the employee's information.<sup>40</sup> Further, all of these exemptions have retroactive application.<sup>41</sup>

The information exempted by the various provisions of s. 119.071(4)(d)2., F.S., is similar but not identical. All of the provisions in s. 119.071(4)(d)2., F.S., exempt from public disclosure the home addresses, telephone numbers, and dates of birth of the specified personnel. However, exemptions are not uniform for names, photographs, and places of employment.

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<sup>29</sup> Section 119.071(4)(d)2.j., F.S.

<sup>30</sup> Section 119.071(4)(d)2.k., F.S.

<sup>31</sup> Section 119.071(4)(d)2.l., F.S.

<sup>32</sup> Section 119.071(4)(d)2.m., F.S.

<sup>33</sup> Section 119.071(4)(d)2.n., F.S.

<sup>34</sup> Section 119.071(4)(d)2.o., F.S.

<sup>35</sup> Section 119.071(4)(d)2.p., F.S.

<sup>36</sup> Section 119.071(4)(d)2.q., F.S.

<sup>37</sup> Section 119.071(4)(d)2.r., F.S.

<sup>38</sup> Section 119.071(4)(d)2.s., F.S.

<sup>39</sup> Section 119.071(4)(d)2.t., F.S.

<sup>40</sup> Section 119.071(4)(d)3., F.S.

<sup>41</sup> Section 119.071(4)(d)4., F.S.

Section 119.071(4)(d)2., F.S., also exempts from public disclosure certain types of information about employees' spouses and children. The exemptions for family members include home addresses, telephone numbers, spouses' places of employment, and names and locations of children's schools and day care facilities. However, exemptions are not uniform for names, dates of birth, and photographs of family members.

In addition, some of the provisions exempt information from ch. 119, F.S., but not from Article I, s. 24(a), of the State Constitution. This means that information would be exempt if held by an executive branch agency, but may not necessarily be exempt if held by the legislative or judicial branches of government.

Finally, certain exemptions have different Open Government Sunset Review sunset dates.

### **Law Enforcement and Other Specified Personnel (s. 119.071(4)(d)2.a., F.S.)**

The public record exemption in s. 119.071(4)(d)2.a., F.S., covers current or former personnel from several agencies engaged in law enforcement, corrections, certain crime-related investigations or child abuse or neglect investigations, revenue collection, and revenue and child support enforcement. Specifically, the exemption covers:

- Home addresses, telephone numbers, dates of birth, and photographs of active or former sworn or civilian law enforcement personnel, including:
  - Correctional and correctional probation officers,
  - Personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities,
  - Personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and
  - Personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement;
- Names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and
- Names and locations of schools and day care facilities attended by the children of such personnel.

### **III. Effect of Proposed Changes:**

The bill amends s. 119.071(4)(d), F.S., which contains several public records exemptions for home addresses and various other information identifying specified agency personnel and their families. The term "home addresses" is currently undefined. The bill expands these exemptions by defining the term "home addresses" to include various location information.

The bill defines the term "home addresses" to mean "the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address."

The bill also amends s. 119.071(4)(d)2.a., F.S., to create a new public records exemption for:



- Home addresses, telephone numbers, dates of birth, and photographs of active or former civilian personnel employed by a law enforcement agency;
- Names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and
- Names and locations of schools and day care facilities attended by the children of such personnel.

The bill allows an officer, employee, justice, judge, or other person covered by the public records exemption to file a written request for release with the custodial agency. The request must specify what information is to be released and to what parties the agency should release the information.

The bill provides a statement of public necessity as required by the State Constitution. Currently, s. 119.071(4)(d), F.S., exempts from public disclosure home addresses of certain agency personnel and their families. The public necessity statement states that the term “home addresses” needs to be defined “so that the safety and privacy of various personnel and their family members are not compromised.” This statement notes

[t]he Legislature has previously recognized that such personnel and their family members are at a heightened risk of physical and emotional harm from disgruntled individuals who have contentious reactions to actions taken by such personnel, or whose business or professional practices have come under scrutiny of such personnel, and, as a result, has enacted various public records exemptions.<sup>42</sup>

Further, the public necessity statement indicates “the current exemptions do not provide protection for various forms of descriptive property information that may be used on its own, or in conjunction with other information, to reveal the home addresses that otherwise should be protected from public disclosure.”

The public necessity statement also identifies a similar public safety rationale for exempting various identifying information and location information (see discussion, *supra*) regarding civilian personnel of law enforcement agencies and their families:

The civilian personnel of law enforcement agencies perform a variety of important duties that ensure public safety and welfare and encourage safe and secure communities. As a result of such duties, these civilian personnel often come into close contact with individuals who not only may be a threat to those personnel, but who might also seek to take revenge against them by harming their spouses and children.

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<sup>42</sup> For example, s. 119.071(4)(d), F.S., exempts from public disclosure telephone numbers of certain agency personnel and their families. In 2012, the Legislature defined “telephone number” to include personal pager numbers because personnel and their families “could potentially be identified, located, and put at risk” if personal pager numbers were subject to public disclosure. Ch. 2012-149, Laws of Fla.

The bill provides that the exemptions in s. 119.071(4)(d), F.S., are subject to the Open Government Sunset Review Act, and stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.<sup>43</sup>

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill takes effect on July 1, 2019.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

##### **B. Public Records/Open Meetings Issues:**

###### ***Vote Requirement***

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. The bill expands several existing exemptions and creates a new exemption. Therefore, the bill requires a two-thirds vote to be enacted.

###### ***Public Necessity Statement***

Article I, s. 24(c), of the State Constitution requires a bill that creates or expands an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemptions.

###### ***Breadth of Exemption***

Article I, s. 24(c), of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law.

The public necessity statement identifies the public safety rationales for defining "home addresses" for purposes of the exemptions in s. 119.071(4)(d), F.S., and for creating an exemption in this paragraph for various identifying information and location information regarding civilian personnel of law enforcement agencies and their families. (See "Effect of Proposed Changes" section of this analysis.) The exemptions are based upon public safety rationales which have supported previous exemptions relating to information identifying agency personnel and their families. Further, an exemption only occurs upon written request of a covered employee or his or her agency. For these reasons, the

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<sup>43</sup> The bill also removes current sunset dates relevant to particular exemptions in s. 119.071(4)(d), F.S.

exemptions do not appear broader than necessary to accomplish the stated purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Any individual or business that currently obtains location information that is covered by the definition of “home addresses” in the bill will not be able to obtain that information from the records custodian if the employee or the employee’s agency requests that the home address information be exempted.

C. Government Sector Impact:

Indeterminate. Agencies or records custodians may incur costs to comply with requests to remove location information covered by the definition of “home addresses” in the bill if that information is currently available to the public on their websites. If a record requested by the public contains information that is subject to public disclosure and home address information that cannot be publicly disclosed, the records custodian may incur costs in redacting the home address information.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 119.071 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Governmental Oversight and Accountability on March 6, 2019:**

The Committee Substitute:

- Allows certain people whose information is protected by the public records exemption to, in writing, request that information be released; and
- Requires that a custodial agency release the requested information when they receive such a request.

**CS by Criminal Justice on February 11, 2019:**

The Committee Substitute:

- Clarifies in the title of the bill that the bill is expanding exemptions from public records requirements for agency personnel information by defining the term “home addresses.”
- Changes the year of the sunset date for the public records exemptions from 2023 to 2024.

- B. **Amendments:**

None.



576466

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2019	.	
	.	
	.	
	.	

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The Committee on Governmental Oversight and Accountability  
(Hooper) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 331 and 332

insert:

4. An officer, employee, justice, judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must specify the information to be released and the party that is authorized to receive the information. Upon receipt of the written request, the custodial



576466

11 agency shall release the specified information to the party  
12 authorized to receive such information.

13

14 ===== T I T L E   A M E N D M E N T =====

15 And the title is amended as follows:

16       Delete line 12

17 and insert:

18       records requirements; authorizing certain persons to  
19       request the release of exempt information in a  
20       specified manner; requiring a custodial agency to  
21       release such information upon receipt of such request;  
22       providing for legislative review

By the Committee on Criminal Justice; and Senators Hooper,  
Baxley, and Simpson

591-02312-19

2019248c1

1 A bill to be entitled  
2 An act relating to public records; amending s.  
3 119.071, F.S.; expanding exemptions from public  
4 records requirements for agency personnel information  
5 by defining the term "home addresses" for purposes of  
6 public records exemptions for personal identifying and  
7 location information of certain agency personnel and  
8 their family members; exempting personal identifying  
9 and location information of active or former civilian  
10 personnel employed by a law enforcement agency, and of  
11 spouses and children of such personnel, from public  
12 records requirements; providing for legislative review  
13 and repeal of the exemptions; providing statements of  
14 public necessity; providing an effective date.  
15  
16 Be It Enacted by the Legislature of the State of Florida:  
17  
18 Section 1. Paragraph (d) of subsection (4) of section  
19 119.071, Florida Statutes, is amended to read:  
20 119.071 General exemptions from inspection or copying of  
21 public records.—  
22 (4) AGENCY PERSONNEL INFORMATION.—  
23 (d)1. For purposes of this paragraph, the term:  
24 a. "Home addresses" means the dwelling location at which an  
25 individual resides and includes the physical address, mailing  
26 address, street address, parcel identification number, plot  
27 identification number, legal property description, neighborhood  
28 name and lot number, GPS coordinates, and any other descriptive  
29 property information that may reveal the home address.

Page 1 of 14

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-02312-19

2019248c1

30 b. "Telephone numbers" includes home telephone numbers,  
31 personal cellular telephone numbers, personal pager telephone  
32 numbers, and telephone numbers associated with personal  
33 communications devices.  
34 2.a. The home addresses, telephone numbers, dates of birth,  
35 and photographs of active or former sworn ~~or civilian~~ law  
36 enforcement personnel or of active or former civilian personnel  
37 employed by a law enforcement agency, including correctional and  
38 correctional probation officers, personnel of the Department of  
39 Children and Families whose duties include the investigation of  
40 abuse, neglect, exploitation, fraud, theft, or other criminal  
41 activities, personnel of the Department of Health whose duties  
42 are to support the investigation of child abuse or neglect, and  
43 personnel of the Department of Revenue or local governments  
44 whose responsibilities include revenue collection and  
45 enforcement or child support enforcement; the names, home  
46 addresses, telephone numbers, photographs, dates of birth, and  
47 places of employment of the spouses and children of such  
48 personnel; and the names and locations of schools and day care  
49 facilities attended by the children of such personnel are exempt  
50 from s. 119.07(1) and s. 24(a), Art. I of the State  
51 Constitution. ~~This sub-subparagraph is subject to the Open  
52 Government Sunset Review Act in accordance with s. 119.15 and  
53 shall stand repealed on October 2, 2022, unless reviewed and  
54 saved from repeal through reenactment by the Legislature.~~  
55 b. The home addresses, telephone numbers, dates of birth,  
56 and photographs of current or former nonsworn investigative  
57 personnel of the Department of Financial Services whose duties  
58 include the investigation of fraud, theft, workers' compensation

Page 2 of 14

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-02312-19

2019248c1

59 coverage requirements and compliance, other related criminal  
60 activities, or state regulatory requirement violations; the  
61 names, home addresses, telephone numbers, dates of birth, and  
62 places of employment of the spouses and children of such  
63 personnel; and the names and locations of schools and day care  
64 facilities attended by the children of such personnel are exempt  
65 from s. 119.07(1) and s. 24(a), Art. I of the State  
66 Constitution. ~~This sub-subparagraph is subject to the Open  
67 Government Sunset Review Act in accordance with s. 119.15 and  
68 shall stand repealed on October 2, 2021, unless reviewed and  
69 saved from repeal through reenactment by the Legislature.~~

70 c. The home addresses, telephone numbers, dates of birth,  
71 and photographs of current or former nonsworn investigative  
72 personnel of the Office of Financial Regulation's Bureau of  
73 Financial Investigations whose duties include the investigation  
74 of fraud, theft, other related criminal activities, or state  
75 regulatory requirement violations; the names, home addresses,  
76 telephone numbers, dates of birth, and places of employment of  
77 the spouses and children of such personnel; and the names and  
78 locations of schools and day care facilities attended by the  
79 children of such personnel are exempt from s. 119.07(1) and s.  
80 24(a), Art. I of the State Constitution. ~~This sub-subparagraph  
81 is subject to the Open Government Sunset Review Act in  
82 accordance with s. 119.15 and shall stand repealed on October 2,  
83 2022, unless reviewed and saved from repeal through reenactment  
84 by the Legislature.~~

85 d. The home addresses, telephone numbers, dates of birth,  
86 and photographs of current or former firefighters certified in  
87 compliance with s. 633.408; the names, home addresses, telephone

591-02312-19

2019248c1

88 numbers, photographs, dates of birth, and places of employment  
89 of the spouses and children of such firefighters; and the names  
90 and locations of schools and day care facilities attended by the  
91 children of such firefighters are exempt from s. 119.07(1) and  
92 s. 24(a), Art. I of the State Constitution. ~~This sub-  
93 subparagraph is subject to the Open Government Sunset Review Act  
94 in accordance with s. 119.15, and shall stand repealed on  
95 October 2, 2022, unless reviewed and saved from repeal through  
96 reenactment by the Legislature.~~

97 e. The home addresses, dates of birth, and telephone  
98 numbers of current or former justices of the Supreme Court,  
99 district court of appeal judges, circuit court judges, and  
100 county court judges; the names, home addresses, telephone  
101 numbers, dates of birth, and places of employment of the spouses  
102 and children of current or former justices and judges; and the  
103 names and locations of schools and day care facilities attended  
104 by the children of current or former justices and judges are  
105 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
106 Constitution. ~~This sub-subparagraph is subject to the Open  
107 Government Sunset Review Act in accordance with s. 119.15 and  
108 shall stand repealed on October 2, 2022, unless reviewed and  
109 saved from repeal through reenactment by the Legislature.~~

110 f. The home addresses, telephone numbers, dates of birth,  
111 and photographs of current or former state attorneys, assistant  
112 state attorneys, statewide prosecutors, or assistant statewide  
113 prosecutors; the names, home addresses, telephone numbers,  
114 photographs, dates of birth, and places of employment of the  
115 spouses and children of current or former state attorneys,  
116 assistant state attorneys, statewide prosecutors, or assistant



591-02312-19

2019248c1

117 statewide prosecutors; and the names and locations of schools  
 118 and day care facilities attended by the children of current or  
 119 former state attorneys, assistant state attorneys, statewide  
 120 prosecutors, or assistant statewide prosecutors are exempt from  
 121 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

122 g. The home addresses, dates of birth, and telephone  
 123 numbers of general magistrates, special magistrates, judges of  
 124 compensation claims, administrative law judges of the Division  
 125 of Administrative Hearings, and child support enforcement  
 126 hearing officers; the names, home addresses, telephone numbers,  
 127 dates of birth, and places of employment of the spouses and  
 128 children of general magistrates, special magistrates, judges of  
 129 compensation claims, administrative law judges of the Division  
 130 of Administrative Hearings, and child support enforcement  
 131 hearing officers; and the names and locations of schools and day  
 132 care facilities attended by the children of general magistrates,  
 133 special magistrates, judges of compensation claims,  
 134 administrative law judges of the Division of Administrative  
 135 Hearings, and child support enforcement hearing officers are  
 136 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 137 Constitution. ~~This sub-subparagraph is subject to the Open  
 138 Government Sunset Review Act in accordance with s. 119.15 and  
 139 shall stand repealed on October 2, 2022, unless reviewed and  
 140 saved from repeal through reenactment by the Legislature.~~

141 h. The home addresses, telephone numbers, dates of birth,  
 142 and photographs of current or former human resource, labor  
 143 relations, or employee relations directors, assistant directors,  
 144 managers, or assistant managers of any local government agency  
 145 or water management district whose duties include hiring and

591-02312-19

2019248c1

146 firing employees, labor contract negotiation, administration, or  
 147 other personnel-related duties; the names, home addresses,  
 148 telephone numbers, dates of birth, and places of employment of  
 149 the spouses and children of such personnel; and the names and  
 150 locations of schools and day care facilities attended by the  
 151 children of such personnel are exempt from s. 119.07(1) and s.  
 152 24(a), Art. I of the State Constitution.

153 i. The home addresses, telephone numbers, dates of birth,  
 154 and photographs of current or former code enforcement officers;  
 155 the names, home addresses, telephone numbers, dates of birth,  
 156 and places of employment of the spouses and children of such  
 157 personnel; and the names and locations of schools and day care  
 158 facilities attended by the children of such personnel are exempt  
 159 from s. 119.07(1) and s. 24(a), Art. I of the State  
 160 Constitution.

161 j. The home addresses, telephone numbers, places of  
 162 employment, dates of birth, and photographs of current or former  
 163 guardians ad litem, as defined in s. 39.820; the names, home  
 164 addresses, telephone numbers, dates of birth, and places of  
 165 employment of the spouses and children of such persons; and the  
 166 names and locations of schools and day care facilities attended  
 167 by the children of such persons are exempt from s. 119.07(1) and  
 168 s. 24(a), Art. I of the State Constitution. ~~This sub-  
 169 subparagraph is subject to the Open Government Sunset Review Act  
 170 in accordance with s. 119.15 and shall stand repealed on October  
 171 2, 2022, unless reviewed and saved from repeal through  
 172 reenactment by the Legislature.~~

173 k. The home addresses, telephone numbers, dates of birth,  
 174 and photographs of current or former juvenile probation

591-02312-19

2019248c1

175 officers, juvenile probation supervisors, detention  
 176 superintendents, assistant detention superintendents, juvenile  
 177 justice detention officers I and II, juvenile justice detention  
 178 officer supervisors, juvenile justice residential officers,  
 179 juvenile justice residential officer supervisors I and II,  
 180 juvenile justice counselors, juvenile justice counselor  
 181 supervisors, human services counselor administrators, senior  
 182 human services counselor administrators, rehabilitation  
 183 therapists, and social services counselors of the Department of  
 184 Juvenile Justice; the names, home addresses, telephone numbers,  
 185 dates of birth, and places of employment of spouses and children  
 186 of such personnel; and the names and locations of schools and  
 187 day care facilities attended by the children of such personnel  
 188 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 189 Constitution.

190 1. The home addresses, telephone numbers, dates of birth,  
 191 and photographs of current or former public defenders, assistant  
 192 public defenders, criminal conflict and civil regional counsel,  
 193 and assistant criminal conflict and civil regional counsel; the  
 194 names, home addresses, telephone numbers, dates of birth, and  
 195 places of employment of the spouses and children of current or  
 196 former public defenders, assistant public defenders, criminal  
 197 conflict and civil regional counsel, and assistant criminal  
 198 conflict and civil regional counsel; and the names and locations  
 199 of schools and day care facilities attended by the children of  
 200 current or former public defenders, assistant public defenders,  
 201 criminal conflict and civil regional counsel, and assistant  
 202 criminal conflict and civil regional counsel are exempt from s.  
 203 119.07(1) and s. 24(a), Art. I of the State Constitution.

Page 7 of 14

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591-02312-19

2019248c1

204 m. The home addresses, telephone numbers, dates of birth,  
 205 and photographs of current or former investigators or inspectors  
 206 of the Department of Business and Professional Regulation; the  
 207 names, home addresses, telephone numbers, dates of birth, and  
 208 places of employment of the spouses and children of such current  
 209 or former investigators and inspectors; and the names and  
 210 locations of schools and day care facilities attended by the  
 211 children of such current or former investigators and inspectors  
 212 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 213 Constitution. ~~This sub-subparagraph is subject to the Open~~  
 214 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
 215 ~~shall stand repealed on October 2, 2022, unless reviewed and~~  
 216 ~~saved from repeal through reenactment by the Legislature.~~

217 n. The home addresses, telephone numbers, and dates of  
 218 birth of county tax collectors; the names, home addresses,  
 219 telephone numbers, dates of birth, and places of employment of  
 220 the spouses and children of such tax collectors; and the names  
 221 and locations of schools and day care facilities attended by the  
 222 children of such tax collectors are exempt from s. 119.07(1) and  
 223 s. 24(a), Art. I of the State Constitution. ~~This sub-~~  
 224 ~~subparagraph is subject to the Open Government Sunset Review Act~~  
 225 ~~in accordance with s. 119.15 and shall stand repealed on October~~  
 226 ~~2, 2022, unless reviewed and saved from repeal through~~  
 227 ~~reenactment by the Legislature.~~

228 o. The home addresses, telephone numbers, dates of birth,  
 229 and photographs of current or former personnel of the Department  
 230 of Health whose duties include, or result in, the determination  
 231 or adjudication of eligibility for social security disability  
 232 benefits, the investigation or prosecution of complaints filed

Page 8 of 14

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591-02312-19 2019248c1

233 against health care practitioners, or the inspection of health  
 234 care practitioners or health care facilities licensed by the  
 235 Department of Health; the names, home addresses, telephone  
 236 numbers, dates of birth, and places of employment of the spouses  
 237 and children of such personnel; and the names and locations of  
 238 schools and day care facilities attended by the children of such  
 239 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of  
 240 the State Constitution. ~~This sub-subparagraph is subject to the~~  
 241 ~~Open Government Sunset Review Act in accordance with s. 119.15~~  
 242 ~~and shall stand repealed on October 2, 2019, unless reviewed and~~  
 243 ~~saved from repeal through reenactment by the Legislature.~~

244 p. The home addresses, telephone numbers, dates of birth,  
 245 and photographs of current or former impaired practitioner  
 246 consultants who are retained by an agency or current or former  
 247 employees of an impaired practitioner consultant whose duties  
 248 result in a determination of a person's skill and safety to  
 249 practice a licensed profession; the names, home addresses,  
 250 telephone numbers, dates of birth, and places of employment of  
 251 the spouses and children of such consultants or their employees;  
 252 and the names and locations of schools and day care facilities  
 253 attended by the children of such consultants or employees are  
 254 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 255 Constitution. ~~This sub-subparagraph is subject to the Open~~  
 256 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
 257 ~~shall stand repealed on October 2, 2020, unless reviewed and~~  
 258 ~~saved from repeal through reenactment by the Legislature.~~

259 q. The home addresses, telephone numbers, dates of birth,  
 260 and photographs of current or former emergency medical  
 261 technicians or paramedics certified under chapter 401; the

591-02312-19 2019248c1

262 names, home addresses, telephone numbers, dates of birth, and  
 263 places of employment of the spouses and children of such  
 264 emergency medical technicians or paramedics; and the names and  
 265 locations of schools and day care facilities attended by the  
 266 children of such emergency medical technicians or paramedics are  
 267 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 268 Constitution. ~~This sub-subparagraph is subject to the Open~~  
 269 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
 270 ~~shall stand repealed on October 2, 2021, unless reviewed and~~  
 271 ~~saved from repeal through reenactment by the Legislature.~~

272 r. The home addresses, telephone numbers, dates of birth,  
 273 and photographs of current or former personnel employed in an  
 274 agency's office of inspector general or internal audit  
 275 department whose duties include auditing or investigating waste,  
 276 fraud, abuse, theft, exploitation, or other activities that  
 277 could lead to criminal prosecution or administrative discipline;  
 278 the names, home addresses, telephone numbers, dates of birth,  
 279 and places of employment of spouses and children of such  
 280 personnel; and the names and locations of schools and day care  
 281 facilities attended by the children of such personnel are exempt  
 282 from s. 119.07(1) and s. 24(a), Art. I of the State  
 283 Constitution. ~~This sub-subparagraph is subject to the Open~~  
 284 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
 285 ~~shall stand repealed on October 2, 2021, unless reviewed and~~  
 286 ~~saved from repeal through reenactment by the Legislature.~~

287 s. The home addresses, telephone numbers, dates of birth,  
 288 and photographs of current or former directors, managers,  
 289 supervisors, nurses, and clinical employees of an addiction  
 290 treatment facility; the home addresses, telephone numbers,

591-02312-19 2019248c1

291 photographs, dates of birth, and places of employment of the  
 292 spouses and children of such personnel; and the names and  
 293 locations of schools and day care facilities attended by the  
 294 children of such personnel are exempt from s. 119.07(1) and s.  
 295 24(a), Art. I of the State Constitution. For purposes of this  
 296 sub-subparagraph, the term "addiction treatment facility" means  
 297 a county government, or agency thereof, that is licensed  
 298 pursuant to s. 397.401 and provides substance abuse prevention,  
 299 intervention, or clinical treatment, including any licensed  
 300 service component described in s. 397.311(26). ~~This sub-~~  
 301 ~~subparagraph is subject to the Open Government Sunset Review Act~~  
 302 ~~in accordance with s. 119.15 and shall stand repealed on October~~  
 303 ~~2, 2023, unless reviewed and saved from repeal through~~  
 304 ~~reenactment by the Legislature.~~

305 t. The home addresses, telephone numbers, dates of birth,  
 306 and photographs of current or former directors, managers,  
 307 supervisors, and clinical employees of a child advocacy center  
 308 that meets the standards of s. 39.3035(1) and fulfills the  
 309 screening requirement of s. 39.3035(2), and the members of a  
 310 child protection team as described in s. 39.303 whose duties  
 311 include supporting the investigation of child abuse or sexual  
 312 abuse, child abandonment, child neglect, and child exploitation  
 313 or to provide services as part of a multidisciplinary case  
 314 review team; the names, home addresses, telephone numbers,  
 315 photographs, dates of birth, and places of employment of the  
 316 spouses and children of such personnel and members; and the  
 317 names and locations of schools and day care facilities attended  
 318 by the children of such personnel and members are exempt from s.  
 319 119.07(1) and s. 24(a), Art. I of the State Constitution. ~~This~~

591-02312-19 2019248c1

320 ~~sub-subparagraph is subject to the Open Government Sunset Review~~  
 321 ~~Act in accordance with s. 119.15 and shall stand repealed on~~  
 322 ~~October 2, 2023, unless reviewed and saved from repeal through~~  
 323 ~~reenactment by the Legislature.~~

324 3. An agency that is the custodian of the information  
 325 specified in subparagraph 2. and that is not the employer of the  
 326 officer, employee, justice, judge, or other person specified in  
 327 subparagraph 2. shall maintain the exempt status of that  
 328 information only if the officer, employee, justice, judge, other  
 329 person, or employing agency of the designated employee submits a  
 330 written request for maintenance of the exemption to the  
 331 custodial agency.

332 4. The exemptions in this paragraph apply to information  
 333 held by an agency before, on, or after the effective date of the  
 334 exemption.

335 5. This paragraph is subject to the Open Government Sunset  
 336 Review Act in accordance with s. 119.15 and shall stand repealed  
 337 on October 2, 2024, unless reviewed and saved from repeal  
 338 through reenactment by the Legislature.

339 Section 2. (1) The Legislature finds that it is a public  
 340 necessity to define the term "home addresses" for purposes of  
 341 the public records exemptions for agency personnel information  
 342 under s. 119.071(4)(d), Florida Statutes. The public records  
 343 exemptions for agency personnel information protect identifying  
 344 and location information of numerous types of personnel,  
 345 including, but not limited to, current or former law enforcement  
 346 officers, investigative personnel, state attorneys and  
 347 prosecutors, public defenders, guardians ad litem, Supreme Court  
 348 justices, various judges, and the spouses and children of such

591-02312-19

2019248c1

349 personnel. The Legislature has previously recognized that such  
 350 personnel and their family members are at a heightened risk of  
 351 physical and emotional harm from disgruntled individuals who  
 352 have contentious reactions to actions taken by such personnel,  
 353 or whose business or professional practices have come under  
 354 scrutiny of such personnel, and, as a result, has enacted  
 355 various public records exemptions. While home addresses of such  
 356 personnel and their family members are already exempt from s.  
 357 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
 358 State Constitution, the current exemptions do not provide  
 359 protection for various forms of descriptive property information  
 360 that may be used on its own, or in conjunction with other  
 361 information, to reveal the home addresses that otherwise should  
 362 be protected from public disclosure. Therefore, the Legislature  
 363 finds that it is a public necessity to specifically define the  
 364 term "home addresses" so that the safety and privacy of various  
 365 personnel and their family members are not compromised.

366 (2) The Legislature further finds that it is a public  
 367 necessity that the home addresses, telephone numbers, dates of  
 368 birth, and photographs of active or former civilian personnel  
 369 employed by a law enforcement agency; the names, home addresses,  
 370 telephone numbers, photographs, dates of birth, and places of  
 371 employment of the spouses and children of such personnel; and  
 372 the names and locations of schools and day care facilities  
 373 attended by the children of such personnel be exempt from public  
 374 records requirements. Existing law already provides that the  
 375 identifying and location information of active or former  
 376 civilian law enforcement personnel and their spouses and  
 377 children are exempt from public records requirements. The

Page 13 of 14

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591-02312-19

2019248c1

378 amendment made by this act further specifies that any active or  
 379 former civilian personnel employed by a law enforcement agency  
 380 and their spouses and children are entitled to the protections  
 381 of the public records exemption. The civilian personnel of law  
 382 enforcement agencies perform a variety of important duties that  
 383 ensure public safety and welfare and encourage safe and secure  
 384 communities. As a result of such duties, these civilian  
 385 personnel often come into close contact with individuals who not  
 386 only may be a threat to those personnel, but who might also seek  
 387 to take revenge against them by harming their spouses and  
 388 children. The Legislature finds that modifying the public  
 389 records exemption to apply to all active or former civilian  
 390 personnel employed by a law enforcement agency and their spouses  
 391 and children will serve the public interest by further ensuring  
 392 the safety of such personnel.

393 Section 3. This act shall take effect July 1, 2019.

Page 14 of 14

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/5/19

Meeting Date

248

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Jim Tolley

Job Title President

Address 343 West Madison St.

Phone 850 224 7333

Street

Tallahassee FL 32301

City

State

Zip

Email jimto@ppfr.org

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing Florida Professional Firefighters

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

# APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03.06.19

Meeting Date

0248

Bill Number (if applicable)

Topic Public Records/Civilians

Amendment Barcode (if applicable)

Name JOHANE ALVAREZ

Job Title 911 Telecommunicator / BSO

Address 1037 NW 81 TERR

Phone 954 629 9970

Street

Plantation FL 33322

City

State

Zip

Email josieme3301@jane.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/2019

248

*Meeting Date*

*Bill Number (if applicable)*

Topic Public Records/Civilian Personnel Employed by a LE Agency

*Amendment Barcode (if applicable)*

Name Chief Gary Hester

Job Title Government Affairs

Address 2636 Mitcham Drive

Phone 850-219-3631

*Street*

Tallahassee

FL

32308

Email ghester@fpca.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing The Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)



**THE FLORIDA SENATE**

**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.6.19

*Meeting Date*

248

*Bill Number (if applicable)*

Topic Public Records Exemption for Civilian Personnel Law Enforcement Agency

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/19

Meeting Date

248

Bill Number (if applicable)

Topic Public Records / Law Enforcement

Amendment Barcode (if applicable)

Name Chase Daniels

Job Title Assistant Executive Director

Address 8700 Citrus Dr

Phone 727-877-6226

Street

New Port Kelsey

FL

34659

City

State

Zip

Email cdaniels@pasosheriffs.org

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing Pasco Sheriff's Office

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Commerce and Tourism, *Vice Chair*  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Governmental Oversight and Accountability  
Military and Veterans Affairs and Space

### JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

**SENATOR VICTOR M. TORRES, JR.**

15th District

March 5, 2019

Ed Hooper, Chair  
Governmental Oversight and Accountability  
404 S. Monroe Street  
Tallahassee, FL 32399

RE: Request for excusal from March 6, 2019 Committee Meeting

Dear Chair Hooper:

Due to a family issue, I am unable to attend tomorrow's meeting of the Committee on Governmental Oversight and Accountability. Please accept this letter as a formal request for excusal of these absences. Please let me know if you have any questions or need any additional information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Victor M. Torres, Jr." with a stylized flourish at the end.

Victor M. Torres, Jr.  
Florida State Senator  
District 15

c: Joe McVaney, Staff Director, Committee on Governmental Accountability and Oversight  
Lisa Vickers, Chief of Staff, President Galvano

REPLY TO:

- 101 Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (850) 410-4817
- 226 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** SB 301  
**Caption:** Senate Governmental Oversight and Accountability Committee

**Case No.:**

**Type:**  
**Judge:**

**Started:** 3/6/2019 10:31:51 AM

**Ends:** 3/6/2019 10:59:23 AM

**Length:** 00:27:33

10:31:49 AM Meeting called to order  
10:31:56 AM Roll Call - Quorum is present  
10:32:12 AM Senator Torres is excused  
10:32:22 AM Comments from Chair  
10:32:45 AM Tab 1 - SB 7032 by Infrastructure and Security Committee, OSGR/Emergency Planning Assistance/Division of Emergency  
10:34:12 AM Chair  
10:34:33 AM Questions? None  
10:34:37 AM Amendments? None  
10:34:41 AM Debate? None  
10:34:43 AM Senator Lee waives close  
10:34:55 AM Roll Call - SB 7032 - Favorable  
10:35:03 AM Tab 2 - SB 7034 by Infrastructure and Security, OSGR/Authorized License Plate Recognition System, presented by Senator Lee  
10:35:25 AM Questions? None  
10:35:45 AM Amendments? None  
10:35:48 AM Debate? None  
10:35:50 AM Senator Lee waives close  
10:35:56 AM Roll Call SB 7034 - Favorable  
10:36:08 AM Tab 3 SB 7036 by Senator Lee - OSGR/Payment of Toll on Toll Facilities/Identifying Information  
10:36:39 AM Questions? None  
10:36:48 AM Amendments? None  
10:36:50 AM Debate?  
10:36:54 AM Senator Rader  
10:37:07 AM Senator Lee  
10:37:21 AM Chair  
10:37:22 AM Debate? None  
10:37:23 AM Senator Lee waives close  
10:37:25 AM Roll Call SB 7036 - Favorable  
10:37:39 AM Tab 4 - SB 440 by Senator Rouson - Florida Commission on Human Relations  
10:38:47 AM Questions? None  
10:39:48 AM Amendments? None  
10:39:50 AM Debate? None  
10:39:54 AM Appearance Forms?  
10:39:57 AM Christopher Turner, Deputy Director Leg. Affairs, Fla. Commission Relations  
10:40:02 AM David Daniel, Florida Chamber of Commerce, waives in support  
10:40:11 AM Debate?  
10:40:18 AM Senator Albritton  
10:40:28 AM Senator Rouson waives close  
10:40:55 AM Roll Call SB 440 - Favorable  
10:41:12 AM Tab 5 - CS/SB 236 by Senator Book - Public Records and Public Meetings  
10:43:28 AM Questions? None  
10:43:35 AM Debate? None  
10:43:43 AM Barney Bishop, President and CEO, Florida Smart Justice Alliance, waives in support  
10:43:47 AM Debate? None  
10:43:51 AM Senator Book waives close  
10:44:14 AM Roll call CS/SB 236 - Favorable  
10:44:36 AM Chair turned over to Vice Chair Rader  
10:45:05 AM SB 574 - by Senator Diaz, presented by Senator Hooper  
10:45:34 AM Amendment 133006 by Senator Hooper  
10:46:21 AM Senator Hooper to explain  
10:46:40 AM Chair

10:46:52 AM Questions? None  
10:46:56 AM Appearance? None  
10:47:00 AM Debate on amendment? None  
10:47:06 AM Senator Hooper waives close  
10:47:11 AM Objection to amendment? None  
10:47:12 AM Amendment 133006 is adopted  
10:47:18 AM Back on the bill as amended  
10:47:21 AM Questions on the bill as amended? None  
10:47:24 AM Appearance forms?  
10:47:27 AM Rich Templin, AFLCIO, waives in support  
10:47:34 AM JoAnne Alvarez, Representing self, waives in support  
10:47:46 AM Anthony Morciano, Sergeant (BSO), representing self, waives support  
10:47:58 AM Jacqui Garmona, Political Director, AFSCME Florida, waives in support  
10:48:15 AM Ken Williams, representing self, waives in support  
10:48:25 AM Chair  
10:48:28 AM Debate on bill as amended? None  
10:48:31 AM Senator Hooper to close on bill as amended  
10:48:59 AM Chair  
10:49:02 AM Roll Call on CS for SB 574 - Favorable  
10:49:22 AM Tab 7 - CS/SB 248 by Senator Hooper - Public Records/Civilian Personnel Employed by a Law Enforcement Agency  
10:49:58 AM Amendment 576466 by Senator Hooper  
10:51:04 AM Questions on amendment? None  
10:51:52 AM Appearance forms? None  
10:51:56 AM Debate? None  
10:52:00 AM Senator Hooper on amendment, waives close  
10:52:04 AM Objection to amendment? None  
10:52:08 AM Amendment 576466 is adopted  
10:52:13 AM Back on bill as amended?  
10:52:17 AM Questions?  
10:52:22 AM Senator Rader  
10:52:36 AM Senator Hooper  
10:54:57 AM Senator Rader  
10:55:07 AM Senator Hooper  
10:55:37 AM Chair  
10:56:00 AM Questions? None  
10:56:04 AM Appearance?  
10:56:07 AM Jim Tolley, President, Florida Professional Firefighters, waives in support  
10:56:17 AM JoAnne Alvarez, representing self, waives in support  
10:56:26 AM Chief Gary Hester, Government Affairs, The Florida Police Chiefs Association, waives in support  
10:56:36 AM Barney Bishop III, President & CEO, Florida Smart Justice, waives in support  
10:56:46 AM Chase Daniels, Assistant Executive Director, Pasco Sheriff's Office, waives in support  
10:56:53 AM Debate? None  
10:57:01 AM Chair  
10:57:13 AM Senator Hooper waives close  
10:57:45 AM Roll Call on CS for CS/SB 248 - Favorable  
10:58:02 AM Chair back to Senator Hooper  
10:58:13 AM Chair  
10:58:16 AM Senator Bean for a motion, would like to shown as voting favorable on SB's 7032, SB 7034, SB7036, SB 440, CS/SB 236  
10:58:42 AM Any objections? None  
10:58:46 AM Senator Bean is recognized for voting favorable on Tab 1-5  
10:58:48 AM Any additional business?  
10:58:50 AM Senator Rader  
10:59:01 AM Senator Rader moves to adjourn  
10:59:18 AM There is no objection to motion, the meeting is adjourned.